

Township of Carneys Point, Salem County

Master Plan Housing Element  
and Fair Share Plan

*Prepared For:*

*Mayor and Committee*

*And*

*Carneys Point Township Land Development Board*

*Township of Carneys Point, New Jersey*

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Endorsed by the Carneys Point Township Committee on: December 17, 2008

The original of this master plan was signed and sealed in accordance with N.J.S.A. 45:14A-12.

Our Project Number 060596401

HONORABLE WAYNE D. PELURA, MAYOR

Township Committee

Deputy Mayor Arnold DiTeodoro  
Kenneth Dennis  
Anthony Rullo  
Anthony Wright

Township Land Development Board

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COAH Petition Application including:	
-Planning Board Resolution Adopting the Housing Element and Fair Share Plan	
-Governing Body Resolution Petitioning the Housing Element and Fair Share Plan	
-Service List	
-2005 Carneys Township Master Plan, Carneys Township Zoning Ordinance & Municipal Tax	
Maps (submitted as part of COAH Application, not on-file)	
-Worksheet A	
-Hillcrest West (Soders Village) Apartments documentation	
-Urban Renewal documentation	
-Checklist for Heritage Redevelopment Project and Redevelopment Agreement	
-Sandy Ridge documentation	
-Draft Development Fee Ordinance and Resolution	
-Draft Spending Plan and Resolution	
-Governing Body Resolution Designating a Fair Housing Liaison	

## I. INTRODUCTION

Pursuant to the Municipal Land Use Law (40:55D-28.b(3)), a Master Plan, where appropriate, may contain a Housing Plan Element. Pursuant to Section 10 of P.L. 1985, c. 222 (C. 52:27D-310), a municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing.

The Township of Carneys Point adopted its Second Round (1993-1999) Housing Element and Fair Share Plan on October 29, 1999. The Township received substantive certification from COAH on August 1, 2001, and was due to expire on August 1, 2007.

COAH adopted third round rules which went into effect on December 20, 2004, and then adopted amendments to the third round rules which went into effect on May 15, 2006. Pursuant to N.J.A.C. 5:95-15.3, on June 28, 2006, the Township adopted a Resolution that committed to file or petition for third round substantive certification by May 15, 2007.

Prior to the Township petitioning for third round substantive certification, COAH's third round regulations were challenged by various parties and they were invalidated, in part, by the Appellate Division in In Re Adoption of N.J.A.C. 5:94 and 5:95 by the New Jersey Council on Affordable Housing, 390 N.J. Super. 1 (App. Div.), certif. denied, 192 N.J. 72 (2007). On May 6, 2008 COAH adopted revised Third Round regulations in response to the Appellate Division Decision, and became effective on June 2, 2008.

This 2008 Housing Element and Fair Share Plan addresses Carneys Point's Third Round housing obligation pursuant to latest third round rules known as Chapters 96 and 97 of the New Jersey Statutes Annotated.

### PLAN REQUIREMENTS

In accordance with the Municipal Land Use Law (N.J.S.A. 40:55d-1, et. seq.), a municipal Master Plan must include a Housing Plan Element as a prerequisite for the adoption of a zoning ordinance within the municipality. Pursuant to Section 10 of P.L. 1985, C. 222 (C:52:27D-310) a municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing. The Housing Element must contain at least the following:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
- b. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next ten (10) years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;

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- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share of low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low and moderate income housing;
- f. A consideration of the lands most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing;

In addition to the requirements of the Municipal Land Use Law and Section 10 of P.L. 1985, C. 222 (C:52:27D-310), N.J.A.C. 5:97-2.3 requires that the Housing Element include the following:

- The household projection for the municipality as provided in Appendix F;
- The employment projection for the municipality as provided in Appendix F;
- The municipality's prior round obligation (from Appendix C);
- The municipality's rehabilitation share (from Appendix B);
- The projected growth share in accordance with the procedures in N.J.A.C. 5:97-2.4; and
- An inventory of all non-residential space by use group that was fully vacant as of the date of petition, to the extent feasible.
- Supporting information to be submitted to COAH shall include:
  - A copy of the most recently adopted municipal zoning ordinance, and
  - A copy of the most up-to-date tax maps of the municipality, electronic if available, with legible dimensions.

In 2005, Carneys Point adopted a master plan that incorporated and updated the 1999 Housing Plan. This 2008 Housing Element and Fair Share Plan will replace the 1999 plan and is hereby incorporated into the Township's comprehensive master plan as the official Housing Element.

## II. HOUSING ELEMENT

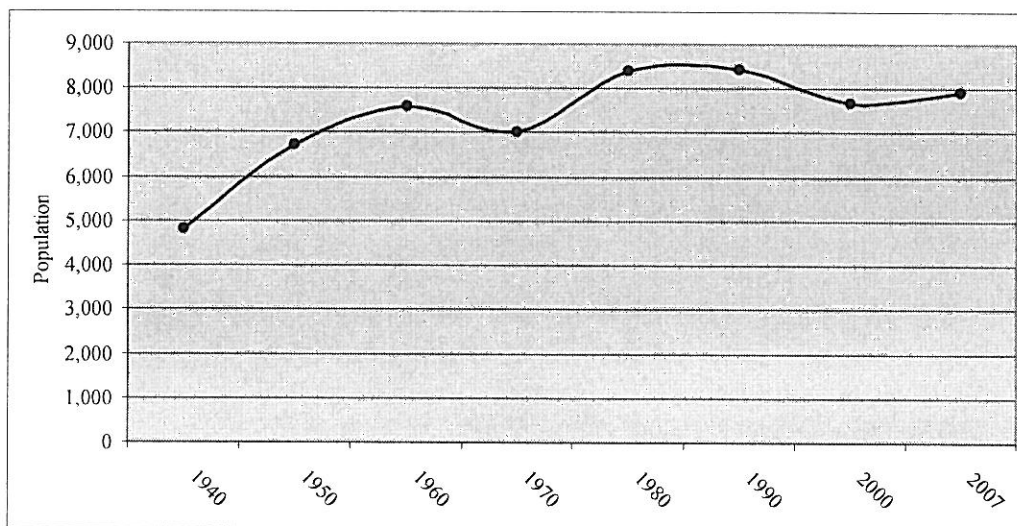
The Housing Element provides an inventory of Carneys Point Township's housing stock, and an analysis of the Township's demographic and employment characteristics.

### DEMOGRAPHIC ANALYSIS

#### **Population**

The resident population of Carneys Point Township in 2000 was 7,684, a slight decrease from the previous two decades. The 2007 US Census population estimate of 7,923 indicates a 3% increase in the Township since the 2000 Census. As indicated in the table below, in the last 60 years, the greatest increase in population occurred between 1940 and 1950 when the population grew by 40% from 4,805 to 6,717.

**Population Growth, 1940 to 2007**  
**Carneys Point Township (Salem County)**



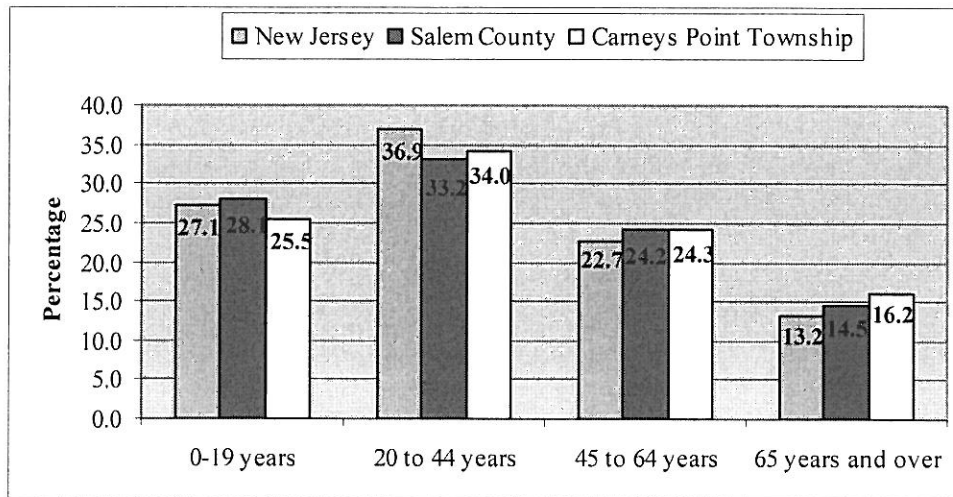
*Source: US Census Bureau*

#### **Age**

Several indicators suggest that Carneys Point is a maturing community. The median age in Carneys Point increased from 34.9 in 1990 to 38.7 in 2000, surpassing the median age in both Salem County (38.0) and the State (36.7). In 2000, Carneys Point also exceeded the County and State in the percentage of its population aged 45 to 64, and 65 and over (see the figure below). Although Salem County was closer to Carneys Point statistically, the State exceeded Carneys Point in both the age groups of 0 to 19 years and 20 to 44 years. In Carneys Point, these same two age groups have declined since 1990.

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**Comparative Age Groups, 2000**  
**Carneys Point Township (Salem County)**



Source: US Census Bureau

**Median Household Income**

In Carneys Point, the median household income increased by 16 percent, from \$35,394 in 1989 to \$41,007 in 1999. Between 1989 and 1999, the household income ranges of \$100,000 to \$149,000, and \$75,000 to \$99,999, increased the most, at 717 and 246 percent respectively. It is important to take into account the importance of inflation when analyzing the upward or downward trends of household income, or any monetary figure. The Census data from 1989, converted to 1999 values, indicates a decrease of approximately \$6,500; from (the equivalent of) \$47,553.55 in 1989 to \$41,007 in 1999 (see the table below).<sup>1</sup>

**Household Income, 1989 and 1999**  
**Carneys Point Township (Salem County)**

Household Income	1989	1999	Change	% Change
Less than \$10,000	329	301	-28	-8.5%
\$10,000 to \$14,999	273	160	-113	-41.4%
\$15,000 to \$24,999	443	523	80	18.1%
\$25,000 to \$34,999	465	342	-123	-26.5%
\$35,000 to \$49,999	883	491	-392	-44.4%
\$50,000 to \$74,999	525	647	122	23.2%
\$75,000 to \$99,999	124	430	306	246.8%
\$100,000 to \$149,999	23	188	165	717.4%
\$150,000 or more	30	43	13	43.3%
<b>Total</b>	<b>3,095</b>	<b>3,125</b>	<b>—</b>	<b>—</b>
<i>Median household income</i>	<i>\$35,394</i>	<i>\$41,007</i>	<i>\$5,613</i>	<i>15.9%</i>
<i>Adjusted to 1999 dollar value</i>	<i>\$47,554</i>	<i>\$41,007</i>	<i>-\$6,547</i>	<i>-13.8%</i>

Source: US Census Bureau

<sup>1</sup> Calculated using the CPI (Consumer Price Index) of 1.3435667, as indicated by the US Department of Labor, Bureau of Labor Statistics. Calculator available at <http://data.bls.gov/cgi-bin/cpicalc.pl>.

## HOUSING INVENTORY

### **Occupancy and Vacancy Rates**

As indicated in the table below, between 1990 and 2000, the number of occupied housing units remained stable, decreasing by only 0.5 percent, and the number of vacant units simultaneously increased by 0.5 percent. These changes indicate a stable housing market in the Township. During the same time period, the homeowner vacancy rate increased a modest 0.4 percent, and the rental vacancy rate increased from 5.4 to 8.0 percent.

**Number of Occupied and Vacant Housing Units, 1990 and 2000**  
**Carneys Point Township (Salem County)**

	1990		2000	
	Number	Percent	Number	Percent
Occupied Housing Units	3,134	94.2%	3,121	93.7%
Vacant Housing Units	194	5.8%	209	6.3%
<b>Total</b>	<b>3,328</b>	<b>100.0%</b>	<b>3,330</b>	<b>100.0%</b>
	1990		2000	
Homeowner Vacancy Rate (%)	1.8	—	2.2	—
Rental Vacancy Rate (%)	5.4	—	8.0	—

*Source: US Census Bureau*

### **Number of Units in Structure**

In 2000, there were a total of 3,330 housing units in Carneys Point. Of those total housing units, approximately two-thirds were owner-occupied, 27.6 percent rental units, and the remaining 6.3 percent were vacant. The greatest majority of total housing units were single-family detached (71.4%). The next largest unit type was multi-family housing with ten units or more (17.7%), and then multi-family housing with 2 to 9 units (5.8%). The majority of single-family attached and detached units and multi-family units were owner-occupied.

**Housing Units by Number of Units in Structure and Tenure, 2000**  
**Carneys Point Township (Salem County)**

Number of Units	Owner-Occupied	Rental	Vacant	Total	Percent
1, Detached	2,067	207	103	2,377	71.4
1, Attached	35	0	6	41	1.2
2 to 9	0	149	43	192	5.8
10 or more	0	544	45	589	17.7
Mobile	100	19	12	131	3.9
Home / Trailer / Other	0	0	0	0	0.0
<b>Total</b>	<b>2,202</b>	<b>919</b>	<b>209</b>	<b>3,330</b>	<b>100.0</b>

*Source: US Census Bureau*

### **Age of Housing**

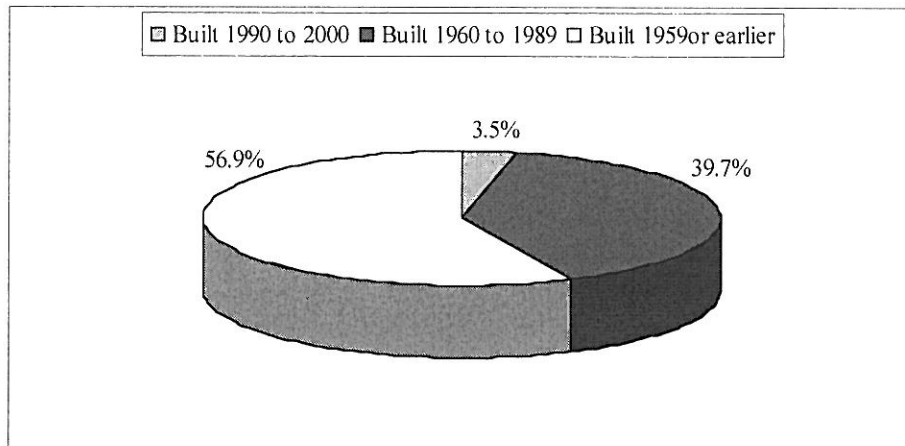
Overall, the majority of Carneys Point's housing stock was built prior to 1960. Only 3.5 percent of the housing stock was built 1990 to 2000. New construction in the Township is reflected in the



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increased vacancy rates, since there has been minimal growth since 1960 (only 89 persons from 1960 to 2000). This indicates a housing surplus and sufficient housing exists to support the existing population. The median year of construction of Carneys Point's housing stock is 1956.

**Age of Housing Stock, 2000**  
**Carneys Point Township (Salem County)**



*Source: US Census Bureau*

### **Housing Affordability**

The basic measure of affordable housing used by COAH is that gross rent (including utilities) will represent no more than 30% of gross household income and that mortgage payments (including taxes, insurance, and homeowner's association fees) will represent no more than 28% of gross household income.

A low-income household is a household whose gross income is equal to or less than 50% of the median gross income for a household of the same size within the same housing region. A moderate-income household is a household whose gross income falls between 50% and 80% of the median household income within the same housing region. Carneys Point Township is in Region 6, consisting of Atlantic, Cape May, Cumberland and Salem Counties. Using COAH's 2000 median income limit figure of \$49,960 for a four-person household in Region 6, the moderate-income household income limit was \$39,968 and \$24,980 for a low-income household of the same size.

The following is an inventory from the 2000 Census, of rental and housing units with gross rent or housing value indicated.

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**Housing Values, 2000**

Owner-Occupied Units	Number	Percentage
Less than \$50,000	57	2.9
\$50,000 to \$99,999	1231	62.4
\$100,000 to \$149,999	481	24.4
\$150,000 to \$199,999	174	8.8
\$200,000 to \$299,999	30	1.5
\$300,000 to \$499,999	0	0.0
\$500,000 to \$999,999	0	0.0
\$1,000,000 or more	0	0.0
Total	1,973	100.0
Median Housing Value	\$89,700	

*Source: US Census Bureau*

**Gross Rent, 2000**

Renter-Occupied Units	Number	Percentage
Less than \$200	141	15.3
\$200 to \$299	52	5.7
\$300 to \$499	74	8.1
\$500 to \$749	462	50.3
\$750 to \$999	133	14.5
\$1,000 to \$1,499	26	2.8
\$1,500 or more	0	0.0
No cash rent	31	3.4
Total	919	100.0
Median Gross Rent	\$607	

*Source: US Census Bureau*

The following table illustrates the estimated number of rental and owner-occupied units located in Carneys Point that were affordable to low-, moderate-, and median income households (based on COAH's year 2000 income limits for a four-person household in Region 6). In 2000, 498, or 54.2% of all rental units were affordable to low-income households. Purchase prices were less affordable, with 364 of 1,973 housing units, or about 18.4% of housing units affordable to low-income households.

Four-person HH Income Category	Gross Annual Income Limit	Affordable Monthly Rent Limit	Affordable Rental Units Estimate (Census 2000)	Affordable Purchase Price <sup>2</sup>	Affordable Ownership Units Estimate (Census 2000)
Median	\$49,960	\$1,249	875	\$124,900	1,528
Moderate	\$39,968	\$999	862	\$99,920	1,286
Low	\$24,980	\$625	498	\$62,450	364

<sup>2</sup> Affordable purchase price threshold is established using affordability standards of 2.5 times household income for ownership units and 30% of monthly income for rentals.



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### Analysis of Sub-Standard Housing

Housing quality is generally evaluated by several indicators, as follows:

- **Age.** Units built before 1940 are considered to have a significant age factor.
- **Overcrowding.** Units containing more than 1.0 persons per room are considered to be overcrowded.
- **Plumbing facilities.** Units lacking complete plumbing for exclusive use are considered deficient.
- **Kitchen facilities.** Units lacking a sink with piped water, a stove and a refrigerator are considered deficient.
- **Heating facilities.** Units lacking central heat are considered deficient.

Approximately 20 percent of Carneys Point's housing stock is 60 years old or older. 1.7 percent of the housing units can be considered overcrowded. Less than one percent of housing units in Carneys Point lacked complete plumbing, complete kitchen facilities or central heating. In general, the quality of the Township's housing stock appears to be in good condition.

**Quality Indicators, Housing Stock, 2000**  
**Carneys Point Township (Salem County)**

	Number	Percent of Total
Built before 1940	673	20.2
Overcrowded	55	1.7
Lacking complete plumbing	13	0.4
Lacking complete kitchen facilities	13	0.4
Lacking central heating	22	0.7
<b>Total Housing Units</b>	<b>3,330</b>	<b>—</b>

*Source: US Census Bureau*

### EMPLOYMENT ANALYSIS

#### **Resident Employment and Occupation**

In 2000, Carneys Point's total labor force totaled 3,669, most of which are employed.

**Employment Status, 2000**  
**Carneys Point Township (Salem County)**

	Number	Percent
<i>Population 16 years and over</i>	6,118	100
In labor force	3,669	60
Civilian labor force	3,669	60
Employed	3,363	55
Unemployed	306	5
<i>Percent of civilian labor force</i>	8.3	(X)
Armed Forces	0	0
Not in labor force	2,449	40

*Source: US Census Bureau*

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In 2000, the top three industry groups based on employment in Carneys Point was: (1) manufacturing; (2) educational, health and social service industries; and (3) retail trade. Every industry within Carneys Point except Agriculture and Information employed at least three percent of the labor force.

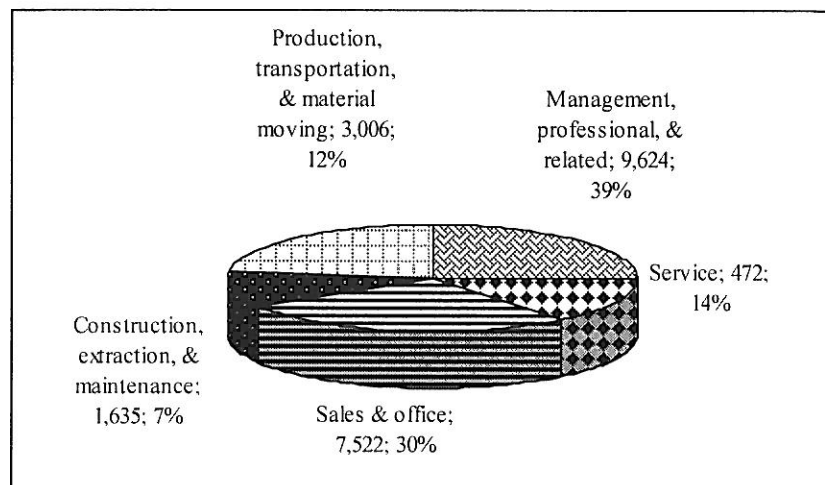
**Employed Civilian Labor Force by Industry, 2000**  
**Carneys Point Township (Salem County)**

Industry	Number	Percent
Manufacturing	631	18.8
Educational, health and social services	614	18.3
Retail trade	417	12.4
Transportation and warehousing, and utilities	310	9.2
Finance, insurance, real estate, and rental and leasing	256	7.6
Arts, entertainment, recreation, accommodation and food services	231	6.9
Professional, scientific, management, administrative, and waste management services	229	6.8
Wholesale trade	204	6.1
Other services (except public administration)	157	4.7
Construction	140	4.2
Public administration	116	3.4
Information	30	0.9
Agriculture	28	0.8

*Source: US Census Bureau*

The following pie-chart illustrates that approximately two-thirds of Carneys Point's employed residents in the year 2000 were working in white collar occupations (management, professional, and sales and office occupations).

**Employed Labor Force by Occupation, 2000**  
**Carneys Point Township (Salem County)**

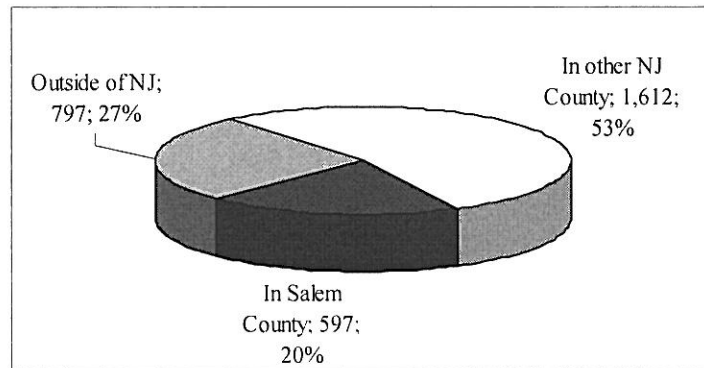


*Source: US Census Bureau*

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In 2000, only 20 percent of Carneys Point residents worked within Salem County. Given the proximity to Pennsylvania and Delaware, over one quarter (27%) worked outside of the State.

**Percent of Workers by Place of Employment, 2000  
Carneys Point Township (Salem County)**



*Source: US Census Bureau*

### **Employment Outlook**

The South Jersey Transportation Planning Organization (SJTPO) prepared employment projections for its four-County region. SJTPO projects that the number of jobs in Carneys Point will increase from 2,155 jobs in 2007 to 2,628 jobs by 2035.

### **FAIR SHARE OBLIGATION**

This section includes a determination of the Township's present and prospective fair share for low and moderate income housing, and with that, an analysis of how the Township will accommodate its fair share.

#### **Rehabilitation Share**

The rehabilitation share is the number of existing housing units in a municipality as of April 1, 2000 that are both deficient and occupied by households of low or moderate income. As indicated in N.J.A.C. 5:97-1 et seq. Appendix B, Carneys Point's rehabilitation share is 21 units.

#### **Prior Round Obligation**

As indicated in N.J.A.C. 5:97-1 et seq. Appendix C, the prior round housing obligation for Carneys Point is 184 units.

#### **Growth Share Obligation**

The growth share obligation is initially calculated based on projections. The projections are based on New Jersey Department of Labor and Workforce Development county projections, which are allocated to the municipal level based on historical trends for each municipality and the extent to which each municipality approaches its physical growth capacity. The projections of household and employment growth are converted into projected growth share affordable housing obligations by applying a ratio of one (1) affordable unit among five (5) residential units projected, plus one (1) affordable unit for every 16 newly created jobs projected. Based on the household and employment

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projections for Carneys Point indicated in the table COAH prepared entitled "Total Projected Growth Share, proposed 6/16/08", the Township's projected growth share obligation is 145 units.

**COAH 2004-2018 Projections and Growth Share Obligation,  
Carneys Point Township (Salem County)**

COAH 2004-2018 Projections	Ratio	Growth Share Obligation (in affordable units)
281 units	1 affordable unit per 5 residential units	56.2
1,420 jobs	1 affordable unit per 16 jobs	88.75
<b>Total</b>		<b>145</b>

*Source: COAH's table entitled "Rehabilitation Share, Prior Round Obligation & Growth Projections based on amendments to NJAC 5:97 adopted September 22, 2008."*

Under NJAC 5:97-2.4(a)1 and NJAC 5:97-2.4(b)1, Carneys Point is not eligible to subtract any exclusions from their household and employment projections.

### **Analysis of Existing Conditions**

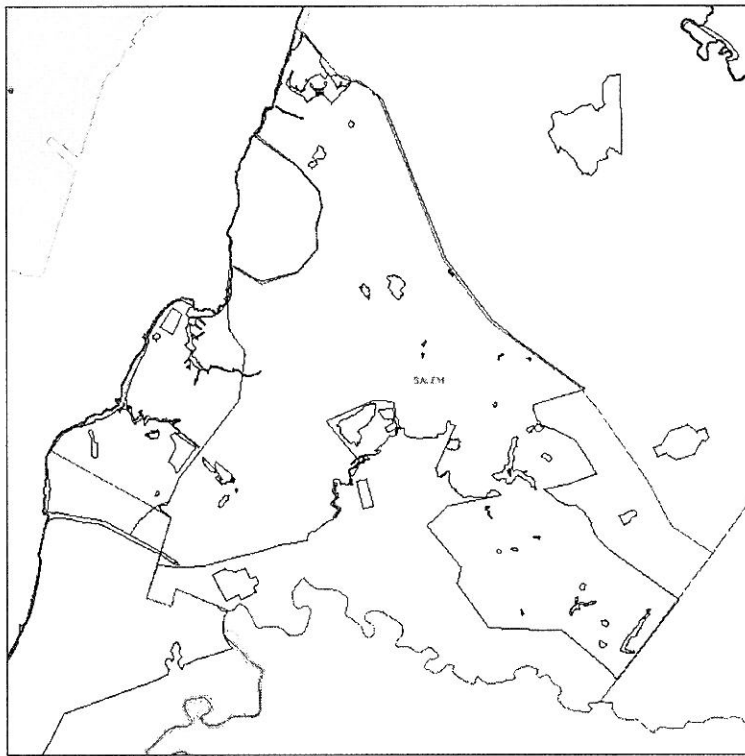
The Township's existing and future conditions in terms of infrastructure, land uses, economic development policies, and environmental constraints must be considered first as a basis for the Township's plan to accommodate its fair share.

#### ***Infrastructure***

The figure below shows the existing State Sewer Service Areas in the Township. As indicated by NJDEP, the SSA mapping shows the planned method of wastewater disposal for specific areas, i.e. whether the wastewater will be collected to a regional treatment facility or treated on site and disposed of through a Surface Water (SW) discharge or a groundwater (GW) discharge. Areas not specifically mapped represent either water features where no construction will occur or land areas that default to individual subsurface disposal systems discharging less than 2,000 gallons/day (gpd) where the site conditions and existing regulations allow. The SSA's in the Township cover almost the entire Township excluding the land area that borders Mannington, and the eastern portion of the Township.

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**Sewer Service Areas in Carneys Point Township (Source: NJDEP)**



As indicated in the Township's 2005 Master Plan, in some areas, alternatives to regional sewerage systems, such as septic tanks and small wastewater treatment systems may be preferable for their added environmental benefit such as groundwater recharge and maintenance of larger stream base flows.

#### ***Land Uses***

The Township's land uses can be divided into six main categories: agriculture, barren land, forest, urban, water, and wetlands. Approximately 21 percent is considered developed or "urban." The remaining lands are considered undeveloped with agriculture and wetlands comprising the greatest percentages, 30% and 28% respectively. For future growth, the Township would like to encourage residential growth along Route 130 and along the northern portion of Route 48, higher density residential growth near the border of Penns Grove, and lower density housing south and east of Penns Grove through infill and selective expansion of residential development. New commercial growth will be encouraged along corridors Routes 48 and 40. The Township's new zoning provides for an area designated for agricultural development in recognition of the Township's rural character.

#### ***Economic Development Policy***

In order to facilitate economic development in the Township and create a favorable business climate, in 1997 the Township Economic Development Commission (EDC) and other Township entities facilitated infrastructure in the Township, and secured over \$1.6 million in grants to construct a 2.5 mile water supply main and a 500,000 gallon elevated water storage tower. The Township created the new Commercial Interchange and Business Park zoning districts to facilitate economic development, and streamlined the local development review process. The Township has

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continued to pursue economic development through redevelopment planning while preserving the rural character of the community.

***Environmental Constraints***

One-Third of the Township is wet. The Township recognizes the importance of wetlands in terms of providing valuable habitat, improving water quality, and providing flood and storm damage protection, and re-zoned the publicly-owned properties and wetlands in the Township for open space and wetland protection.

**FAIR SHARE PLAN**

The following provides a plan indicating how the Township will meet its fair share obligation.

**Rehabilitation Share**

Carneys Point has contracted with Triad Associates, a firm experienced in the administration of housing rehabilitation programs, to administer its rehabilitation program. Since April 1, 2000, the Township has rehabilitated 35 units through the Department of Community Affairs (DCA) Small Cities Community Development Block Grant Program. All of these units are owner occupied and have a deferred mortgage in place. This mortgage is due and payable back to Carneys Point when the title of the property changes from the original owner either through a sale or settlement of an estate, regardless of how long the original applicant resides there. The units were below code standard before rehabilitation and raised to code standard with at least one major system addressed at an average per unit cost of \$14,100. The lien terms range between 10 years and 99 years. The Township will continue to offer housing rehabilitation assistance to low and moderate income homeowners and renters in 2009. The Township is requesting 35 rehabilitation credits.

**Units Rehabilitated under Township Housing Rehabilitation Program Since April 2000  
Carneys Point Township (Salem County)**

Development Name/ Address		Rental or Owner Occupied	Date CO'd	Amount provided towards rehabilitation
261 Market Street		Owner-Mod	2-22-2001	\$12,455
233 Wintergreen		Owner-Mod	2-22-2001	\$11,895
45 South Miller Street		Owner-Mod	5-24-2001	\$13,500
255 H Street		Owner-Low	9-11-2001	\$12,755
256 I Street		Owner-Mod	9-9-2001	\$12,560
260 Shell Road		Owner-Low	9-11-2001	\$12,500
257 C Street		Owner-Low	11-27-2001	\$11,170
264 Shell Road		Owner-Mod	11-20-2001	\$12,175
258 E Street		Owner-Low	1-16-2002	\$28,020
273 Regional Drive		Owner-Mod	9-11-2001	\$13,500
286 Jefferson Street		Owner-Mod	7-7-2003	\$16,200
236 Regional Drive		Owner-Very Low	2-11-2004	\$11,945
111 Lupine Lane		Owner-Mod	6-11-2003	\$11,500
336 Polk Avenue		Owner-Low	4-30-2003	\$12,485

*Carneys Point Township*  
Master Plan Housing Element and Fair Share Plan

Development Name/ Address		Rental or Owner Occupied	Date CO'd	Amount provided towards rehabilitation
290 North Broad Street		Owner-Mod	5-12-2004	\$14,340
14 4 <sup>th</sup> Avenue Street		Owner-Low	9-12-2003	\$8,975
383 Ives Avenue		Owner-Mod	7-7-2003	\$15,680
263 Market Street		Owner-Low	9-12-2003	\$11,775
248 E Street		Owner-Mod	1-15-2002	\$12,975
15 4 <sup>th</sup> Street		Owner-Low	9-12-2003	\$8,900
288 C Street		Owner-Mod	5-12-2004	\$14,575
268 Market Street		Owner-Very Low	8-10-2005	\$15,400
112 Snowdrop Lane		Owner-Mod	10-28-2004	\$14,125
280 North Virginia Avenue		Owner-Very Low	4-13-2005	\$17,325
65 Washington Avenue		Owner-Mod	8-10-2005	\$17,740
286 Garfield Street		Owner-Mod	10-26-2005	\$13,100
268 Market Street		Owner	8-18-2005	\$15,400
285 Garfield Street		Owner	8-18-2005	\$13,100
65 Washington Avenue		Owner	8-18-2005	\$17,740
7 S. Auburn Road		Owner	3-24-2008	\$13,700
258 Regional Drive		Owner	7-7-2008	\$14,900
97 S. Dolbow Avenue		Owner	3-24-2008	\$20,350
412 Ives Avenue		Owner	3-24-2008	\$12,975
328 Pine Street		Owner	7-7-2008	\$14,975
56 Watson Road		Owner	10-24-2008	\$12,849
<b>Total</b>	<b>35</b>			



## **Prior Round Obligation**

### ***Credits without Controls***

The Township has identified 37 units constructed between April 1, 1980 and December 15, 1986, which are eligible for credits without controls. Under COAH guidelines, a one-to-one credit is available for units developed during this period for unrestricted sale or rental, provided those units are affordable to low and moderate income households and the resident income does not exceed 80% of area median income. The procedure for identifying and qualifying these credits is outlined below:

1. Based on construction official and/or tax assessor records, the municipality must prepare a list of units, which received a CO for the above period. The list should be ordered numerically by block and lot and include street address, CO date, and any additions to the unit.
2. COAH provide the municipality an informational cover letter income questionnaire, and household certification for the municipality to reproduce and mail to those households on the list. The municipality will also provide a self-addressed stamped envelope to return the forms to COAH with the municipal code on the outside for sorting.
3. Following the 30-day return date for completed forms, COAH will review the submitted household income data and prepare a list of income-eligible households by address. COAH will forward the list to the designated municipal representatives for the construction official to conduct an exterior survey and certify those units are in sound condition.
4. The municipality will provide three comparables of arms-length closed sale transactions similar to the eligible unit to assess whether a for-sale unit is affordable. COAH will calculate eligible sales price at the filing date and eligible rents/utility allowance.

The Township is currently in the process of performing the proper documentation for the eligibility of these 37 credits without controls.

In the event that the Township is not able to provide the documentation for the above-cited credits without controls, the Township intends to pursue the rehabilitation of Sandy Ridge Apartments for credits. In 2007, the Township passed a Resolution of Need Regarding the Rehabilitation of Sandy Ridge Apartments (enclosed).

### ***Hillcrest West (Soders Village) Apartments-Prior Cycle Credits***

Located on 619 Soders Road (Block 246, Lot 16), Hillcrest West (Soders Village) Apartments consist of 48 rental units constructed in 1982 and fully occupied in 1983 for very-low and low income households. Specifically of the total 48 units, 41 units are fully subsidized, and the renters pay up to 30% of their income. The remaining 7 units are for low-income households. Hillcrest West (Soders Village) Apartments were developed under the USDA Section 515 Rural Rental Housing Program. The Section 515 Program requires the units be rented to very-low, low or moderate income households, as defined by the US Department of Housing and Urban Development. The Certificate of Occupancy, mortgage evidencing affordable restrictions, and Section 515 Program affordability requirements are all enclosed. The Township is requesting 48 prior cycle credits of which 32 will be used towards the prior round obligation, and 16 towards the growth share obligation.



*Carneys Point Township*  
Master Plan Housing Element and Fair Share Plan

***Healthcare Commons/Heritage Redevelopment Agreement***

Carneys Point Second Round Plan included a site called Healthcare Commons located at 428 South Pennsville-Auburn Road (Block 194, Lot 1). This facility was planned as a 60-unit independent living facility for disabled adults. It was to provide 60 credits plus 34 rental bonuses for a total of 94 credits. This site will not be developed as planned.

In its place, the Township and Heritage Building Group, Inc. entered into a Redevelopment Agreement in June 2006 to construct a mixed use development within Sub-Areas 2 and 3 of the Township Redevelopment Area. The Redevelopment Agreement provides for a commitment by the redeveloper to not only construct 60 affordable units calculated as the Township's obligation under the COAH certified Second Round Housing Element and Fair Share Plan, but to address the Third Round (Growth Share) obligation that is generated through the construction of any projects under the Redevelopment Agreement.

Currently the Redevelopment Agreement is being amended to include a more specific plan to construct 80 affordable family rentals containing one to three bedrooms as part of the overall project within the redevelopment area. In accordance with NJAC 5:97-3.19, these 80 units receive 1.33 units of bonus credit as the project is located within a designated redevelopment area. The Township is requesting 80 credits, 70, 2 for 2 bonus rental credits, and 10 bonus redevelopment credits valued at 1.33 each.

***Carneys Point Urban Renewal Housing Partners***

Carneys Point Urban Renewal Housing Partners (Partners), LLC, constructed a residential project on seven (7) acres located at 44 Dupont Road (Block 72, Lots 38.04-38.10), including 110 age-restricted units. The project was funded through Balanced Housing and Federal Low Income Tax Credits. All of the units are deed restricted for 30 years. The Township is requesting 77 credits and 17 bonus rental credits valued at 1.33 each.

★ ★

A summary of the Township's prior round obligation is presented below. The following parameters are applicable to the Township's prior round obligation:

**Parameters for Prior Round Obligation, and Proposed Units  
Carneys Point Township (Salem County)**

	<b>Required (affordable units)</b>	<b>Proposed Affordable Units</b>
		<b>(Deficit) or +Surplus</b>
Prior Round Obligation	184	184
Min. Rental Requirement	34	107, +73
Max. Rental Bonus	34	34
Max. Age-Restricted	41	41
Max. Age-Restricted Rental Bonus	17	17

*Carneys Point Township*  
Master Plan Housing Element and Fair Share Plan

**Satisfaction of Prior Round Obligation  
Carneys Point Township (Salem County)**

<b>Project: Name</b>	<b>Total Project Units and Type</b>	<b>Credits Requested</b>	<b>Total Credits Requested (including bonuses)</b>	<b>Citation for Bonus</b>
Soders Village Apartments	48 prior cycle credits rental units (41 very low, 7 low)	32	32	
Heritage Redevelopment Agreement	80 family rentals	34	68	NJAC 5:97-3.5(a)
Urban Renewal Housing	110 senior rentals			
<i>Units</i>		24	24	
<i>Units eligible for bonus</i>		17	23	NJAC 5:97-3.5(b)
Credits without controls	37 units	37	37	
<b>Total</b>				<b>184</b>

NOTES:

Soders-carry forward 16 rentals-very low

Heritage-carry forward 46 family rentals

Urban Renewal-carry forward 69 senior rentals

**Growth Share Obligation**

The following provides narratives of projects that will be used to satisfy the Township's growth share obligation.

***Hillcrest West (Soders Village) Apartments-Prior Cycle Credits***

See description above.

***Healthcare Commons/Heritage Redevelopment Agreement***

See description above. In order to meet the Township's minimum family obligation and very-low income obligation, the Township intends to have discussions with Heritage to potentially amend the redevelopment agreement to increase the number of affordable units in their project and provide a portion of those housing units to be available to very-low income households.

***Carneys Point Urban Renewal Housing Partners***

See description above.

\*\*

**Carneys Point Township**  
Master Plan Housing Element and Fair Share Plan

A summary of the Township's growth share obligation is presented in the table below. The following parameters are applicable to the Township's growth share obligation:

**Parameters for Growth Share Obligation, and Proposed Units**  
**Carneys Point Township (Salem County)**

	<b>Required (affordable units)</b>	<b>Proposed Affordable Units</b>
		<b>(Deficit) or +Surplus</b>
Growth Share Obligation	145	
Min. Family Housing Requirement	73	62, (11)
Min. Rental Requirement	36	98, +62
Min. Family Rental Units	18	62, +44
	25% of the growth share once the rental requirement is met= 36 unit cap	
Max. Rental Bonus		36
Max. Age-Restricted	36	36
Min. Very Low-Income	19	16, (3)

**Satisfaction of Growth Share Obligation,**  
**Carneys Point Township (Salem County)**

<b>Project: Name</b>	<b>Total Project Units and Type</b>	<b>Credits Requested</b>	<b>Total Credits Requested (including bonuses)</b>	<b>Citation for Bonus</b>
Soders Village Apartments	48 prior cycle credits	16	16	
Heritage	46 family rentals			
Units eligible for 1.33 for 1 bonus		10	13.3	NJAC 5:97-3.19
Units eligible for 2 for 2 bonus		36	72	NJAC 5:97-3.6(a)
Urban Renewal	110 senior rentals	36	36	
<b>Total</b>			<b>137</b>	

**RESOLUTION NO: 2008-29****RESOLUTION TO MEMORIALIZE THE ADOPTION OF THE AMENDMENT TO THE HOUSING ELEMENT OF THE MASTER PLAN AND A FAIR SHARE PLAN AND RECCOMENDING A PETITION TO THE COUNCIL ON AFFORDABLE HOUSING FOR SUBSTANTIAL CERTIFICATION**

**WHEREAS**, pursuant to Municipal Land Use Law 40:55D-89, the Planning Board is empowered to periodically reexamine its Master Plan and its individual elements as needed; and

**WHEREAS**, The Master Plan for the Township of Carneys Point was last reexamined in 2005 and included a Housing Element pursuant to N.J.S.A. 40:55D-28b(3); and

**WHEREAS**, The Planning Board of the Township of Carneys Point has determined that a review of the Housing Element was warranted at this time to assess whether additional steps must be taken to meet the Township's obligation to insure the construction of adequate affordable housing and to meet the Township's Round Three COAH requirements; and

**WHEREAS**, N.J.A.C. 5:94-2.2(a) requires the adoption of the Housing Element and any amendments thereto by the Planning Board and endorsement by the Governing Body; and

**WHEREAS**, N.J.A.C. 5:94-4.1(a) requires the preparation of a Fair Share Plan in accordance with the Housing Element of the Master Plan and N.J.A.C. 5:94-4.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement by the Governing Body; and

**WHEREAS**, A Fair Share Plan was prepared by Mrs. Amy Sarrinikoulaou, PP/ AICP dated November 2008, which plan was discussed at previous public work sessions of the Planning Board where public comment was also solicited; and

**WHEREAS**, the Board conducted a public hearing on the proposed Third Round Housing Element and Third Round Fair Share Plan on December 9, 2008, following proper publication and certified-mail distribution of notice as required by N.J.S.A. 40:55D-13, and following a ten-day period during which the proposed Third Round Housing Element and Third Round Fair Share Plan were placed on file with the Township Clerk for review by interested members of the public; and

**WHEREAS**, at the hearing, the Board heard testimony from Mrs. Amy Sarrinikoulaou, PP/ AICP and provided an opportunity for interested members of the public to testify and ask questions about the proposed Third Round Housing Element and Third Round Fair Share Plan; and

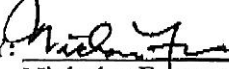
**WHEREAS**, following the period allotted for public testimony and questions, the Planning Board determined that the proposed Third Round Housing Element and Third Round Fair Share Plan contains accurate information and appropriate recommendations, and that the Board should therefore adopt the proposed Third Round Housing Element and Third Round Fair Share Plan as part of the Carneys Point Township Master Plan; and

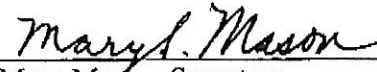
**WHEREAS**, the Planning Board has determined that the Housing Element and Fair Share Plan are consistent with the goals and objectives of the Master Plan and that adoption and implementation of

the Third Round Housing Element and Third Round Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

**NOW THEREFORE BE IT RESOLVED**, by the Carneys Point Township Planning Board, in the County of Salem and State of New Jersey, that it hereby adopts the Third Round Housing Element and Third Round Fair Share Plan both dated November 2008 that were prepared for the Board by Mrs. Amy Sarrinikoulaou, PP/AICP as an amendment to the Housing Element of the Master Plan. The Planning Board directs that the plan and this resolution be transmitted to the Carneys Point Township Committee pursuant to NJSA 40:55D-26.

**ATTEST: CARNEYS POINT TOWNSHIP PLANNING BOARD**

BY:   
Nicholas Franceschini, Chairman

BY:   
Mary Mason, Secretary

**SAID RESOLUTION WAS INTRODUCED AND ADOPTED** at a regular meeting of the Carneys Point Township Planning Board on December 9, 2008.

  
Mary Mason, Secretary

Voting in favor:  
James Williamson,  
Arnold DiTeodoro,  
Barbara Scafiro,  
Stanley Harris,  
James Sassi,  
Larry Marini,  
Everett Sparks,  
Spiro Apessos  
Emma Jean Shockley,  
Nicholas Franceschini

# CARNEYS POINT TOWNSHIP

## RESOLUTION 2008-174

**WHEREAS**, the Governing Body of Carneys Point, Salem County will petition the Council on Affordable Housing (COAH) for substantive certification by December 31, 2008 and

**WHEREAS**, P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), permits municipalities that are under the jurisdiction of COAH or of a court of competent jurisdiction and that have a COAH-approved spending plan to impose and retain fees on residential and non-residential development; and

**WHEREAS**, subject to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), N.J.A.C. 5:97-8.3 permits a municipality to prepare and submit a development fee ordinance for review and approval by the Council on Affordable Housing (COAH) that is accompanied by and includes the following:

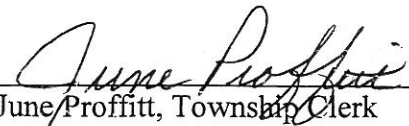
1. A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d);
2. A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e);
3. A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d);
4. A description of collection procedures per N.J.A.C. 5:97-8.3(f);
5. A description of development fee appeals per N.J.A.C. 5:97-8.3(g); and
6. A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h).

**WHEREAS**, Carneys Point has prepared a draft development fee ordinance that establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations at N.J.A.C. 5:97-8 and in accordance with P.L.2008, c.46, Sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

**NOW THEREFORE BE IT RESOLVED** that the Governing Body of Carneys Point Township, Salem County, requests that COAH review and approve Carneys Point's development fee ordinance.

ATTEST:

CARNEYS POINT TOWNSHIP

  
June Proffitt, Township Clerk

  
Wayne D. Belura, Mayor

Adopted: December 17, 2008

Resolution 2008-174

Page #2

COMMITTEE	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
DENNIS		X	X			
DITEODORO	X		X			
RULLO			X			
WRIGHT						X
PELURA			X			

CERTIFIED TO BE A TRUE AND CORRECT COPY OF  
A RESOLUTION ADOPTED BY TOWNSHIP COM-  
MITTEE AT A MEETING HELD ON THE 17<sup>th</sup>

DAY OF December 2008.  
June Profford TOWNSHIP CLERK



**CARNEYS POINT TOWNSHIP**  
**RESOLUTION 2008-175**

**WHEREAS**, the Planning Board of Carneys Point Township, Salem County, State of New Jersey, adopted the Housing Element of the Master Plan on December 9, 2008; and

**WHEREAS**, a true copy of the resolution of the Planning Board adopting the Housing Element is attached pursuant to N.J.A.C. 5:96-2.2(a)2; and

**WHEREAS**, the Planning Board adopted the Fair Share Plan on December 9, 2008; and

**WHEREAS**, a true copy of the resolution of the Planning Board adopting the Fair Share Plan is attached pursuant to N.J.A.C. 5:96-2.2(a)2.

**NOW THEREFORE BE IT RESOLVED** that the Governing Body of Carneys Point Township, Salem County, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Carneys Point Township Planning Board; and

**BE IT FURTHER RESOLVED** that the Governing Body of Carneys Point Township, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.2, submits this petition for substantive certification of the Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

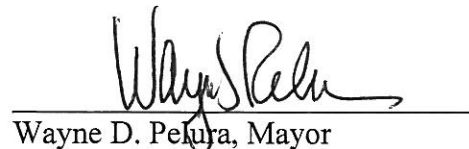
**BE IT FURTHER RESOLVED** that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the petition; and

**BE IT FURTHER RESOLVED** that notice of this petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Carneys Point Township municipal clerk's office located at 303 Harding Highway, during the hours of 8:30AM to 4:30 PM on Monday through Friday for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

ATTEST:

  
June Proffitt, Township Clerk

CARNEYS POINT TOWNSHIP

  
Wayne D. Pelura, Mayor

Adopted: December 17, 2008



COMMITTEE	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
DENNIS	X		X			
DITEODORO		X	X			
RULLO			X			
WRIGHT						X
PELURA			X			

CERTIFIED TO BE A TRUE AND CORRECT COPY OF  
A RESOLUTION ADOPTED BY TOWNSHIP COM-  
MITTEE AT A MEETING HELD ON THE 17<sup>th</sup>

DAY OF December 20 08.  
June Proffitt TOWNSHIP CLERK

## **CARNEYS POINT TOWNSHIP RESOLUTION 2008-176**

**WHEREAS**, the Governing Body of Carneys Point, Salem will petition the Council on Affordable Housing (COAH) for substantive certification by December 31, 2008; and

**WHEREAS**, Carneys Point has requested approval from COAH on December 17, 2008 of its development fee ordinance; and

**WHEREAS**, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds and proceeds from the sale of affordable units; and

**WHEREAS**, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

**WHEREAS**, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;

9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

**WHEREAS**, Carneys Point has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

**NOW THEREFORE BE IT RESOLVED** that the Governing Body of Carneys Point, Salem County requests that COAH review and approve Carneys Point's spending plan.

ATTEST:

CARNEYS POINT TOWNSHIP

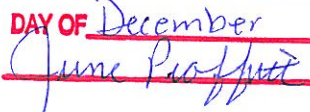
  
June Proffitt, Township Clerk

  
Wayne D. Pelura, Mayor

Adopted: December 17, 2008

COMMITTEE	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
DENNIS			X			
DITEODORO	X		X			
RULLO		X	X			
WRIGHT						X
PELURA			X			

CERTIFIED TO BE A TRUE AND CORRECT COPY OF  
A RESOLUTION ADOPTED BY TOWNSHIP COM-  
MITTEE AT A MEETING HELD ON THE 17<sup>th</sup>

DAY OF December 2008.  
 TOWNSHIP CLERK

**Workbook A: Growth Share Determination Using Published Data**  
 (Using Appendix F(2), *Allocating Growth To Municipalities*)

**COAH Growth Projections**  
**Must be used in all submissions**

**Municipality Name:**

**Carneys Point**

Enter the COAH generated growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. on Line 1 of this worksheet. Use the Tab at the bottom of this page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated. Use these figures in the Application for Substantive Certification.

	Residential	Non-Residential
1 Enter Growth Projections From Appendix F(2) *	281	1,420
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	<a href="#">Click Here to enter Prior Round Exclusions</a>	
COs for prior round affordable units built or projected to be built post 1/1/04	0	
Inclusionary Development	0	
Supportive/Special Needs Housing	0	
Accessory Apartments	0	
Municipally Sponsored or 100% Affordable	0	
Assisted Living	0	
Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	0	
3 Subtract the following Non-Residential Exclusions (5:97-2.4(b))		
Affordable units	0	
Associated Jobs		0
4 Net Growth Projection	281	1,420
5 Projected Growth Share (Conversion to Affordable Units Dividing Households by 5 and Jobs by 16)	56.20 Affordable Units	88.75 Affordable Units
6 Total Projected Growth Share Obligation		145 Affordable Units

\* For residential growth, see Appendix F(2), Figure A.1, Housing Units by Municipality. For non-residential growth, see Appendix F(2), Figure A.2, Employment by Municipality.

## Affordable and Market-Rate Units Excluded from Growth

**Municipality Name:** Carneys Point

**Prior Round Affordable Units NOT included in Inclusionary Developments Built post 1/1/04**

Development Type	Number of COs Issued and/or Projected
Supportive/Special Needs Housing	
Accessory Apartments	
Municipally Sponsored and 100% Affordable	
Assisted Living	
Other	
<b>Total</b>	<b>0</b>

### Market and Affordable Units in Prior Round Inclusionary Development

Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rentals? (Y/N)	Total Units	Market Units	Affordable Units	Market Units Excluded
		0			0
		0			0
		0			0
		0			0
		0			0
<b>Total</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

### Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development

N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
		0
		0
		0
		0
<b>Total</b>	<b>0</b>	<b>0</b>

[Return To Workbook A Summary](#)

# PROJECTS ADDRESSING NEW CONSTRUCTION OBLIGATION

**1713 CARNEY'S POINT TWP**

**SALEM**

Project 1 **SODERS VILLAGE APARTMENTS (SECTION 515 RENTAL HSG)** Status: 7

Type NON Type of Alternative Living: Date of Planning Board Approval: \_\_\_\_\_

Planning Area Block: Lot: Acreage .00 Density .00

Total Units: 48 Market Units 0 Affordable Units: 48 Rental Bonus: 0 Total Plan 48

Non Age Restricted 48 Sales: 0 Rental: 48 Age Restricted: 0 Sales: 0 Rental: 0

Low: 0 0 Excess: 0 Low: 0 0

Mod: 0 0 Mod: 0 0

Total Affordable Units Complete: 48 Excess Age Rest Complete: Total Market Units Complete:

Date First C.O. Issued: 01-01-1982 Date Final C.O. Issued: 12-31-1982 Length of Affordability Controls: 0

**Bedroom Breakdown for Affordable Units:**

Sale	Eff Low	Eff Mod:	Rental	Eff Low:	Eff Mod:
	1 Low:	1 Mod:		1 Low:	1 Mod:
	2 Low:	2 Mod:		2 Low:	2 Mod:
	3 Low:	3 Mod:		3 Low:	3 Mod:

Total RCA Funds Transferred \$0.00

Funds paid to municipality if developer is making a payment in lieu of providing affordable units: \_\_\_\_\_

Number of handicapped accessible units: low \_\_\_\_\_ mod \_\_\_\_\_

Number of units deed restricted to persons or households earning less than 30 percent of median income: \_\_\_\_\_

Project Sponsor / Developer: \_\_\_\_\_

Funding Sources: \_\_\_\_\_

Person/Agency responsible for initial sale/rental: \_\_\_\_\_

Person/Agency responsible for resale/rental: \_\_\_\_\_

Project contact: \_\_\_\_\_

Number of foreclosures: low \_\_\_\_\_ mod \_\_\_\_\_

Have affordability controls expired on any units? y n

PLEASE ATTACH A LIST WHICH INCLUDES THE ADDRESS, BLOCK AND LOT NUMBER or UNIT NUMBER FOR EACH AFFORDABLE UNIT, THE NUMBER OF BEDROOMS IN EACH UNIT, WHETHER THE UNIT IS OCCUPIED BY A LOW OR MODERATE INCOME HOUSEHOLD AND THE DATE THE CERTIFICATE OF OCCUPANCY WAS ISSUED FOR EACH UNIT. THIS INFORMATION IS NECESSARY TO INSURE THAT YOUR MUNICIPALITY RECEIVES PROPER CREDIT FOR ALL AFFORDABLE HOUSING ACTIVITIES. ALSO SUBMIT A COPY OF THE DEED RESTRICTION USED FOR THIS PROJECT.

Status of project: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## PROJECTS OR PROGRAMS ADDRESSING A NEW CONSTRUCTION OBLIGATION

(Complete a form for each project or program that is addressing the new construction obligation)

### PART A – Complete for all projects and programs

Municipality: Carneys Point Township County: Salem

Project or Program Name: Soders Village Apartments (Section 515 Rental Housing)

#### Project / Program Type (circle one)

Inclusionary

Assisted Living Facility

Alternative Living Arrangement

Accessory Apartment

Credits without Controls

Buy – Down

100 Percent Affordable

Municipally-Sponsored Rental Units

ECHO

RCA

#### Credit Type (circle one)

Prior-cycle

Post-1986 completed

Proposed/Zoned

RCA

Municipal Partnership Program

Rehabilitation

Unmet Need

#### Project Status (circle current status; complete date for all actions)

Date of Action

Proposed/Zoned

Preliminary Approval

Final Approval

Under Construction or partial RCA payments transferred

Completed (all affordable certificates of occupancy (C.O.) issued  
or all RCA funds transferred)

12/31/1982

Deleted from Plan

(date approved by COAH) \_\_\_\_\_ )

Total units in project or program 48 Market units \_\_\_\_\_ Affordable units 48

Number of affordable units certified by COAH for credit 48

Current number, if different than certified number \_\_\_\_\_

Excess affordable age-restricted units \_\_\_\_\_

Surplus affordable units (not in plan) \_\_\_\_\_

Affordable units under review by COAH \_\_\_\_\_

**PART B – Complete for New Construction Projects** (for accessory and buy-down programs, complete applicable sections)

Project Address: 619 Soders Road

Project Block/Lot (list all) Block 246, Lot 16

Project Acreage: 4.315

Project Density (units per acre): \_\_\_\_\_

**Planning Area** (circle all that apply)

1	2	3	4	4B	5	5B
Highland Preservation			Highlands Planning Area		Pinelands	Meadowlands
CAFRA			Category 1 Watershed			

**Construction Type** (circle one)

Newly Created      Reconstruction (gut rehabilitation)      Conversion

**If an Inclusionary project, identify type** (circle one)

Units constructed on-site      Units constructed off-site      Combination      Contributory      Growth Share

**For Contributory Sites**

Total payment in lieu of building affordable units on site \_\_\_\_\_

Paid to date \_\_\_\_\_

Number of affordable units created with payment \_\_\_\_\_

Use of payment in lieu (circle all that apply)      RCA      Rehabilitation      Units built off-site in municipality

Partnership Program      Other \_\_\_\_\_

**If an Alternative Living Arrangement project, identify type** (circle one)

Transitional Facility for the Homeless      Residential Health Care Facility      Congregate Living Facility

Group Home      Boarding Homes (A through E) (only eligible for credit for 1987-99 plans)

**Funding Sources** (circle all that apply)

Low Income Housing Tax Credit	Balanced Housing	Balanced Housing Home Express			
UHORP	MONI	HUD 202	HUD 811	HUD HOPE VI	Payment in Lieu
Federal Home Loan Bank, Affordable Housing Program	Private	Development Fees	Other	<u>USDA Section 515</u>	



**Breakdown of Affordable Units**

Total non-age-restricted	<u>48</u>	Sales	_____	Rentals	<u>48</u>	Total age-restricted	_____	Sales	_____	Rentals	_____
(30% of median income)		very low	_____		<u>X</u>			very low	_____		_____
(50% of median income)		low	_____		<u>X</u>			low	_____		_____
(80% of median income)		mod	_____		<u>X</u>			mod	_____		_____

**Bedroom Distribution**

Sale units	efficiency low	_____	1 bedroom low	_____	2 bedroom low	_____	3 bedroom low	_____
	efficiency mod	_____	1 bedroom mod	_____	2 bedroom mod	_____	3 bedroom mod	_____
Rental units	efficiency low	_____	1 bedroom low	_____	2 bedroom low	_____	3 bedroom low	_____
	efficiency mod	_____	1 bedroom mod	_____	2 bedroom mod	_____	3 bedroom mod	_____

**Completed Units**

Number of affordable units completed 48                      Number of market units completed \_\_\_\_\_

Number of affordable units lost through foreclosures, illegal sale or expired affordability controls \_\_\_\_\_

Length of Affordability Controls (in years) \_\_\_\_\_

First Certificate of Occupancy issued (year) 1982                      Final Certificate of Occupancy issued (year) 1983

Project Waiver granted      yes      no      Type \_\_\_\_\_

Condo Fee percentage (if applicable) \_\_\_\_\_

Affordability Average \* \_\_\_\_\_

Project / Program Sponsor \_\_\_\_\_

Project Developer \_\_\_\_\_

Administrative Agent \_\_\_\_\_

**PART C - For Regional Contribution Agreements (RCA)**

(Receiving municipality will submit detailed project and unit information)

RCA Receiving Municipality \_\_\_\_\_

Number of units transferred \_\_\_\_\_                      Cost per unit \_\_\_\_\_

Total transfer amount \_\_\_\_\_                      Amount transferred to date \_\_\_\_\_

\* "Affordability Average" means an average of the percentage of median income at which restricted units in an affordable development are affordable to low and moderate-income households.

# PROJECTS ADDRESSING NEW CONSTRUCTION OBLIGATION

**1713 CARNEY'S POINT TWP**

**SALEM**

Project 2 CARNEYS POINT URBAN RENEWAL HOUSING PARTNERS Status: 4  
 Type NON Type of Alternative Living: Date of Planning Board Approval: \_\_\_\_\_  
 Planning Area 1 Block: 72 Lot: 38.04-38.10 Acreage 7.00 Density .00  
 Total Units: 99 Market Units 57 Affordable Units: 42 Rental Bonus: 0 Total Plan 42  
 Non Age Restricted 0 Sales: 0 Rental: 0 Age Restricted: 42 Sales: 0 Rental: 42  
 Low: 0 0 Excess: 47 Low: 0 0  
 Mod: 0 0 Mod: 0 0  
 Total Affordable Units Complete: 0 Excess Age Rest Complete: Total Market Units Complete:  
 Date First C.O. Issued: Date Final C.O. Issued: Length of Affordability Controls: 30

**Bedroom Breakdown for Affordable Units:**

Sale	Eff Low	Eff Mod:	Rental	Eff Low:	Eff Mod:
1 Low:	1 Mod:		1 Low:	1 Mod:	
2 Low:	2 Mod:		2 Low:	2 Mod:	
3 Low:	3 Mod:		3 Low:	3 Mod:	

Total RCA Funds Transferred \$0.00

Funds paid to municipality if developer is making a payment in lieu of providing affordable units: \_\_\_\_\_

Number of handicapped accessible units: low \_\_\_\_\_ mod \_\_\_\_\_

Number of units deed restricted to persons or households earning less than 30 percent of median income: \_\_\_\_\_

Project Sponsor / Developer: \_\_\_\_\_

Funding Sources: \_\_\_\_\_

Person/Agency responsible for initial sale/rental: \_\_\_\_\_

Person/Agency responsible for resale/rental: \_\_\_\_\_

Project contact: \_\_\_\_\_

Number of foreclosures: low \_\_\_\_\_ mod \_\_\_\_\_

Have affordability controls expired on any units? y n

PLEASE ATTACH A LIST WHICH INCLUDES THE ADDRESS, BLOCK AND LOT NUMBER or UNIT NUMBER FOR EACH AFFORDABLE UNIT, THE NUMBER OF BEDROOMS IN EACH UNIT, WHETHER THE UNIT IS OCCUPIED BY A LOW OR MODERATE INCOME HOUSEHOLD AND THE DATE THE CERTIFICATE OF OCCUPANCY WAS ISSUED FOR EACH UNIT. THIS INFORMATION IS NECESSARY TO INSURE THAT YOUR MUNICIPALITY RECEIVES PROPER CREDIT FOR ALL AFFORDABLE HOUSING ACTIVITIES. ALSO SUBMIT A COPY OF THE DEED RESTRICTION USED FOR THIS PROJECT.

Status of project: \_\_\_\_\_

## PROJECTS OR PROGRAMS ADDRESSING A NEW CONSTRUCTION OBLIGATION

(Complete a form for each project or program that is addressing the new construction obligation)

### PART A – Complete for all projects and programs

Municipality: Carneys Point Township County: Salem

Project or Program Name: Carneys Point Urban Renewal Housing Partners (Carneys Point Senior Housing)

#### Project / Program Type (circle one)

Inclusionary	Assisted Living Facility	Alternative Living Arrangement
Accessory Apartment	Credits without Controls	Buy – Down
100 Percent Affordable	Municipally-Sponsored Rental Units	ECHO RCA

#### Credit Type (circle one)

Prior-cycle	Post-1986 completed	Proposed/Zoned	RCA	Municipal Partnership Program
Rehabilitation	Unmet Need			

#### Project Status (circle current status; complete date for all actions)

Date of Action

Proposed/Zoned

\_\_\_\_\_

Preliminary Approval

\_\_\_\_\_

Final Approval

\_\_\_\_\_

Under Construction or partial RCA payments transferred

\_\_\_\_\_

Completed (all affordable certificates of occupancy (C.O.) issued  
or all RCA funds transferred)

\_\_\_\_\_

Deleted from Plan

(date approved by COAH) \_\_\_\_\_)

\_\_\_\_\_

Total units in project or program 99 <sup>110?</sup> Market units \_\_\_\_\_ Affordable units \_\_\_\_\_

Number of affordable units certified by COAH for credit \_\_\_\_\_

Current number, if different than certified number \_\_\_\_\_

Excess affordable age-restricted units \_\_\_\_\_

Surplus affordable units (not in plan) \_\_\_\_\_

Affordable units under review by COAH \_\_\_\_\_

**PART B – Complete for New Construction Projects** (for accessory and buy-down programs, complete applicable sections)

Project Address: 44 Dupont Road

Project Block/Lot (list all) Block 72, Lots 38.04-38.10

Project Acreage: 4.14 Project Density (units per acre): \_\_\_\_\_

Planning Area (circle all that apply)

☒ 1      2      3      4      4B      5      5B  
Highland Preservation      Highlands Planning Area      Pinelands      Meadowlands  
CAFRA      Category 1 Watershed

Construction Type (circle one)

☒ Newly Created      ☐ Reconstruction (gut rehabilitation)      ☐ Conversion

If an Inclusionary project, identify type (circle one)

☒ Units constructed on-site      ☐ Units constructed off-site      ☐ Combination      ☐ Contributory      ☐ Growth Share

For Contributory Sites

Total payment in lieu of building affordable units on site \_\_\_\_\_

Paid to date \_\_\_\_\_

Number of affordable units created with payment \_\_\_\_\_

Use of payment in lieu (circle all that apply)      RCA      Rehabilitation      Units built off-site in municipality  
Partnership Program      Other \_\_\_\_\_

If an Alternative Living Arrangement project, identify type (circle one)

Transitional Facility for the Homeless      Residential Health Care Facility      Congregate Living Facility  
Group Home      Boarding Homes (A through E) (only eligible for credit for 1987-99 plans)

Funding Sources (circle all that apply)

Low Income Housing Tax Credit      Balanced Housing      Balanced Housing Home Express  
UHORP      MONI      HUD 202      HUD 811      HUD HOPE VI      Payment in Lieu  
Federal Home Loan Bank, Affordable Housing Program      Private      Development Fees      Other \_\_\_\_\_

**Breakdown of Affordable Units**

Total non-age-restricted	_____	Sales	_____	Rentals	<u>68</u>	Total age-restricted	<u>42</u>	Sales	_____	Rentals	<u>42</u>
(30% of median income)		very low	_____		_____			very low	_____		_____
(50% of median income)		low	_____		_____			low	_____		_____
(80% of median income)		mod	_____		_____			mod	_____		_____

**Bedroom Distribution**

Sale units	efficiency low	_____	1 bedroom low	_____	2 bedroom low	_____	3 bedroom low	_____
	efficiency mod	_____	1 bedroom mod	_____	2 bedroom mod	_____	3 bedroom mod	_____
Rental units	efficiency low	_____	1 bedroom low	_____	2 bedroom low	_____	3 bedroom low	_____
	efficiency mod	_____	1 bedroom mod	_____	2 bedroom mod	_____	3 bedroom mod	_____

**Completed Units**

Number of affordable units completed 99                      Number of market units completed \_\_\_\_\_

Number of affordable units lost through foreclosures, illegal sale or expired affordability controls \_\_\_\_\_

Length of Affordability Controls (in years) 30

First Certificate of Occupancy issued (year) \_\_\_\_\_      Final Certificate of Occupancy issued (year) \_\_\_\_\_

Project Waiver granted                      yes      no      Type \_\_\_\_\_

Condo Fee percentage (if applicable) \_\_\_\_\_

Affordability Average \* \_\_\_\_\_

Project / Program Sponsor \_\_\_\_\_

Project Developer \_\_\_\_\_

Administrative Agent \_\_\_\_\_

**PART C - For Regional Contribution Agreements (RCA)**

(Receiving municipality will submit detailed project and unit information)

RCA Receiving Municipality \_\_\_\_\_

Number of units transferred \_\_\_\_\_      Cost per unit \_\_\_\_\_

Total transfer amount \_\_\_\_\_      Amount transferred to date \_\_\_\_\_

\* "Affordability Average" means an average of the percentage of median income at which restricted units in an affordable development are affordable to low and moderate-income households.

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**PROPOSED REDEVELOPMENT AREAS (N.J.A.C. 5:97-6.6)**

(Submit separate checklist for each site or zone)

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**General Description**

Municipality/County: Enter Municipality and County Name *Carneys Pt, Salem*

Project Name/Redevelopment Designation: Enter Project Name or Redevelopment Area - *Heritage*

Block(s) and Lot(s): \_\_\_\_\_

Total acreage: 39.41 Proposed density (units/gross acre): 2

Affordable Units Proposed: 80

Family: 80 Sale: \_\_\_\_\_ Rental: 80

Very low-income units: TBD Sale: \_\_\_\_\_ Rental: \_\_\_\_\_

Age-Restricted: \_\_\_\_\_ Sale: \_\_\_\_\_ Rental: \_\_\_\_\_

Market-Rate Units Anticipated: \_\_\_\_\_

Non-Residential Development Anticipated (in square feet): \_\_\_\_\_

Will the proposed development be financed in whole or in part with State funds, be constructed on State-owned property or be located in an Urban Transit Hub or Transit Village? ☐ Yes ☒ No

**Bonuses for affordable units, if applicable:**

Rental bonuses as per N.J.A.C. 5:97-3.5: 34

Rental bonuses as per N.J.A.C. 5:97-3.6(a): \_\_\_\_\_

Very low income bonuses as per N.J.A.C. 5:97-3.7<sup>1</sup>: 10

Smart growth bonuses as per N.J.A.C. 5:97-3.18: \_\_\_\_\_

Redevelopment bonuses as per N.J.A.C. 5:97-3.19: \_\_\_\_\_

Compliance bonuses as per N.J.A.C. 5:97-3.17 36

Date zoning or redevelopment plan adopted: 8/27/03 *Redev Plan adopted*

Date development approvals granted: \_\_\_\_\_

**Information and Documentation Required with Petition or in Accordance with an  
Implementation Schedule**

**The municipality is providing an implementation schedule for this project/program.**

☐ Yes. Skip to and complete implementation schedule found at the end of this checklist.  
NOTE: The remainder of this checklist must be submitted in accordance with the implementation schedule.

☒ No. Continue with this checklist.

☒ Project/Program Information Form (previously known as Project/Program Monitoring Form. If relying on previously submitted 2007 monitoring and/or subsequent CTM update, also check here ☐ in lieu of submitting forms.)

☒ Adopted Resolution designating Redevelopment Area

☐ Demonstration of DCA's approval of Redevelopment Area designation. Check here ☒ if non-applicable.

☒ Redevelopment plan adopted by the governing body which includes the requirements for affordable housing

☒ A description of the site, including its location, acreage and existing and intended use

☒ An anticipated timeline and development process expected for the site

**If payments in lieu of on-site construction of the affordable units is an option:**

☐ Proposed or adopted ordinance establishing the amount of the payments

☐ Spending plan

**A general description of the site, including:**

☒ Name and address of owner

☒ Subject property street location

☒ Subject property block(s) and lot(s)

☒ Indicate if urban center or workforce housing census tract

☒ Subject property total acreage

☒ Previous zoning designation and date previous zoning was changed

☒ Current zoning and date current zoning was adopted

☒ Description of any changes to bulk standards intended to accommodate the proposed densities

☒ Tax maps showing the location of site(s) with legible dimensions (electronic if available)

☒ Map of Redevelopment Area

*See attached Redevelopment  
Agr.*



**Information and Documentation Required prior to Substantive Certification or in Accordance  
with an Approved Implementation Schedule**

**A description of the suitability of the site, including:**

- ☐ Description of surrounding land uses
- ☐ Demonstration that the site has street access
- ☐ Planning Area and/or Special Resource Area designation(s) e.g., PA1, PA2, PA3, PA4, PA5, CAFRA, Pinelands, Highlands, Meadowlands, etc., including a discussion on consistency with the State Development and Redevelopment Plan (SDRP) and/or other applicable special resource area master plans
- ☐ Demonstration that there is or will be adequate water capacity per N.J.A.C. 5:97-1.4 to serve the proposed redevelopment area or that the site is subject to a durational adjustment per N.J.A.C. 5:97-5.4
- ☐ Demonstration that there is or will be adequate sewer capacity per N.J.A.C. 5:97-1.4 to serve the proposed redevelopment area or that the site is subject to a durational adjustment per N.J.A.C. 5:97-5.4

**A description (including maps if applicable) of any anticipated impacts that result from the following environmental constraints:**

- ☐ Wetlands and buffers
  - ☐ Steep slopes
  - ☐ Flood plain areas
  - ☐ Stream classification and buffers
  - ☐ Critical environmental site
  - ☐ Historic or architecturally important site/district
  - ☐ Contaminated site(s); proposed or designated brownfield site
  - ☐ Based on the above, a quantification of buildable and non-buildable acreage
- 
- ☐ A copy of the final Request for Proposals, which includes the requirements for affordable housing. Check here ☐ if non-applicable.
  - ☐ Demonstration that the municipality or redeveloper either has control of the site or an option on the property or a plan in place for obtaining site control, in accordance with the LHRL
  - ☐ An executed redevelopment agreement that results in the creation of affordable housing units and which shall include the following:
    - ☐ Number, tenure and type of units
    - ☐ A schedule for the overall development plan, including phasing of residential development
    - ☐ Compliance with N.J.A.C. 5:94-6.4(i)-(k)

- ☐ Demonstration that the first floor of all townhouse or other multistory dwelling units is accessible and adaptable per N.J.A.C. 5:97-3.14
- ☐ If applicable, current status of the municipality's Workable Relocation Assistance Program (WRAP)

**Information and Documentation Required Prior to Marketing the Completed Units**

- ☐ Resolution or executed contract designating an experienced Administrative Agent, and a statement of his/her qualifications, in accordance with N.J.A.C. 5:96-18
- ☐ Adopted operating manual that includes a description of program procedures and administration or a statement indicating that the Administrative Agent designated to run the program uses a COAH-approved manual in accordance with UHAC
- ☐ An affirmative marketing plan in accordance with UHAC, except for low- and moderate-income households displaced by redevelopment that are given preference for new units

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**PROPOSED REDEVELOPMENT AREAS (N.J.A.C. 5:97-6.6)**

**IMPLEMENTATION SCHEDULE**

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The implementation schedule sets forth a detailed timetable that demonstrates a "realistic opportunity" as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.

The timetable, information, and documentation requested below are required components of the implementation schedule.

Please note that all information and documentation requested below is required to be submitted to COAH no later than two years prior to the scheduled implementation of the mechanism. The fully completed checklist from above must be submitted at that time.

**PROVIDE THE INFORMATION REQUESTED IN THE SECTIONS BELOW**

**(A) Redevelopment Area information, including the following:**

Redevelopment Area Documentation	Date Anticipated to be Completed	Date Supporting Documentation to be Submitted to COAH
Adopted resolution designating Redevelopment Area		
Demonstration of DCA's approval of Redevelopment Area designation (enter N/A if not applicable)		

Redevelopment plan adopted by the governing body which includes the requirements for affordable housing		
---	--	--

**(B) Development schedule, including, but not limited to, the following:**

<b>Redevelopment Process Action</b>	<b>Date Anticipated to Begin</b>	<b>Date Anticipated to be Completed</b>	<b>Date Supporting Documentation to be Submitted to COAH</b>
Site Identification			
RFP Process (enter N/A if not applicable)			
Developer Selection			
Site Plan Preparation			
Development Approvals			
Contractor Selection			
Building Permits			
Construction			
Occupancy			

## Redevelopment Narrative Section

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<sup>1</sup> Pursuant to PL 2008 c.46, Very Low-Income bonuses may only be granted for very low-income units that exceed 13 percent of the of the housing units made available for occupancy by low-income and moderate income households.

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REDEVELOPMENT AGREEMENT

BY AND BETWEEN

TOWNSHIP OF CARNEYS POINT,  
as Redevelopment Entity

AND

HERITAGE BUILDING GROUP, INC.  
as Redeveloper

Date: June , 2006

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Exhibit F	REDEVELOPER'S PROJECT TEAM
Exhibit G	COMPLIANCE PLAN FOR AFFORDABLE HOUSING
Exhibit H	REDEVELOPMENT PLAN

This Redevelopment Agreement ("Agreement"), dated as of \_\_\_\_\_, 2006, by and between the Township of Carneys Point ("Township"), having offices at 303 Harding Highway, Carneys Point, New Jersey 08069, acting in the capacity of a redevelopment entity pursuant to the provisions of the Local Redevelopment and Housing Law, and Heritage Building Group, Inc. ("Redeveloper"), a Pennsylvania corporation with offices located at 2500 York Road, Jamison, PA 18929.

WITNESSETH:

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*, as amended and supplemented (the "Act"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, in order to stimulate redevelopment, in 2001 the Township adopted a Resolution designating approximately 2500 acres as being in need of redevelopment (the "Redevelopment Area") in accordance with the Act; and

WHEREAS, on August 27, 2003, the Township adopted by Ordinance the Mayor's Citizens Advisory Redevelopment Committee, Carneys Point Township: Building a Bridge to Prosperity ("Redevelopment Plan"), which sets forth, *inter alia*, the plan for the redevelopment of three (3) separate sub-areas of the Redevelopment Area; and

WHEREAS, the Township desires that the Redevelopment Area, as defined more specifically in Exhibit A, be redeveloped in accordance with the Redevelopment Plan; and

WHEREAS, the Project Site is comprised of properties currently owned by various private parties; and

WHEREAS, on June 29, 2005, the Redeveloper submitted a Proposal for Redevelopment and Revitalization ("Proposal") to the Township setting forth a plan for redevelopment of the Redevelopment Area; and

WHEREAS, after reviewing the Proposal, the Township determined that the Proposal was consistent with the Redevelopment Plan and the Township determined to enter into a Redevelopment Agreement with Redeveloper for the redevelopment of Sub-Areas 2 & 3 of the Redevelopment Area ("Project Site") in accordance with the Redevelopment Plan; and

WHEREAS, the Project Proposal from the Redeveloper dated June 29, 2005 is attached hereto as ("Exhibit E"); and

WHEREAS, on August 24, 2005 the Township authorized a Memorandum of Agreement (the "MOA") with Heritage to set forth the principles of agreement with respect to the redevelopment of the Project Site, negotiation of the Redevelopment Agreement and the payment of the Township's costs related thereto; and

WHEREAS, the Township and Heritage have determined to enter into a comprehensive redevelopment agreement, setting forth the terms and conditions pursuant to which the Project Site is to be acquired and redeveloped in accordance with the Act; and

WHEREAS, the Redeveloper agrees to implement the Project (as defined herein) in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the parties hereto, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATIONS**

SECTION 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Act” means the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*, as amended and supplemented.

“Affiliate” means with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“Age Qualified” means that the Grantee[s] in any conveyance of such property must include at least one individual over the age of 55 years and that no individuals under the age of 18 years old may reside on the property on a permanent basis. Any Deed conveying ownership of such property shall set forth these conditions as a restriction on the use and ownership of such property and shall state that such restrictions shall run with the land.

“Agreement” means this Agreement between the Township and Redeveloper and any written amendments and supplements hereto.

“Acquisition Parcel(s)” means the privately-owned real property to be acquired by Redeveloper within the Project Site as identified on Exhibit A.

“Township” means the Township of Carneys Point, New Jersey, a municipal corporation of the State of New Jersey.

“Township Costs” shall have the meaning set forth in Article X.

“Township Indemnified Parties” means the Township and their elected or appointed officers, agents, consultants, including Ron Rukenstein, P.P., and employees.

“Certificate of Completion” means a certificate issued by the Township in accordance with Section 2.4 of this Agreement.

“Certificate of Occupancy” means a permanent Certificate of Occupancy as is defined in the New Jersey Administrative Code, N.J.A.C. 5:23-1 et seq.

“Closing” shall mean (a) as to the Township Parcels, a closing of title to all or a portion of the Township Parcels at which such Township Parcels are conveyed by the Township to the Redeveloper; or (b) as to any of the Acquisition Parcels which are acquired by the Township through condemnation or otherwise, a closing of title at which such Acquisition Parcels are conveyed by the Township to the Redeveloper; or (c) as to any Acquisition Parcels which are acquired directly by Redeveloper, a closing of title at which such Acquisition Parcels are conveyed by the owner(s) thereof to the Redeveloper.

“Commence Construction” or “Commencement of Construction” means the undertaking by Redeveloper of any actual physical construction of new structures, including footings and foundations, but excluding demolition, construction or upgrading of subsurface infrastructure.

“Completion Dates” shall have the meaning set forth in the Project Improvements and Phasing, attached as Exhibit B hereto.

“Condemnation Appraisals” means appraisals of the fair market value of each property that is the subject of a Property Notice, obtained by the Township and used as the basis of the Township’s good faith offers to the owners of each such property.

“Construction Compliance Officer” or “CCO” means the technical consultant contracted by the Township to oversee the implementation of the Project.

“Contract Date” means the date of the execution of this Agreement by both parties.

“COAH” means the New Jersey Council on Affordable Housing.

“Critical Path Method” means a systematic procedure for detailed project planning and control, or similar tracking method, whereby (a) each major activity is described in terms of expected duration, and its interrelationship to all other activities, and (b) all activities which are necessary for completion of the Project are scheduled in a manner such that the Project is completed in efficient and practical time in accordance with the Project Schedule.

“DEP” means the New Jersey Department of Environmental Protection.

“Design Criteria and Quality Standards” shall have the meaning set forth in the Redevelopment Plan as the same shall be amended for the Project.

“Eminent Domain Act” means the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq.

“Environmental Law” means any federal, state, local, municipal or other statutes, laws, ordinances, rules, regulations or other legally enforceable requirement, whether presently existing or hereinafter enacted, promulgated or otherwise created for the protection of the environment or human health from hazardous substances, as the same may be amended or supplemented from time to time, including, without limitation, (a) the New Jersey Spill Compensation and Control Act, as amended, *N.J.S.A.* 58:10-23.11 et seq.; (b) the New Jersey Industrial Site Recovery Act, as amended, *N.J.S.A.* 13:1K-6 et seq.; (c) the New Jersey Leaking Underground Storage Tank Act, as amended, *N.J.S.A.* 58:10-21 et seq.; (d) the Comprehensive Environmental Response, Compensation & Liability Act, as amended, 42 *U.S.C.* Section 9601 et seq.; (e) the Resource Conservation and Recovery Act, as amended, 42 *U.S.C.* Section 6901 et seq.; (f) the Hazardous Material Transportation Act, as amended, 49 *U.S.C.* Section 180, et seq.; (g) the Occupational Safety and Health Act, as amended, 29 *U.S.C.* Section 651, et seq.; (h) Sanitary Landfill Closure and Contingency Fund Act *N.J.S.A.* 13:1E-100 et seq..

“Event of Default” shall have the meaning set forth in Article XIV.



“Financial Due Diligence Period” means a period of sixty (60) consecutive days from the Contract Date during which the Township shall satisfy itself as to Redeveloper’s financial ability to undertake this Project.

“Governmental Approvals” means all necessary reviews, consents, permits or other approvals of any kind legally required by any local, county, State or Federal governmental or quasi-governmental entity having jurisdiction over the Project.

“Hazardous Substance” means any waste or substance identified as having an adverse environmental impact under any federal, state, or local law, ordinance, rule, regulation or order, which include but are not limited to the following statutes, chapters, etc., as amended, and the regulations and policies adopted pursuant thereto: Titles 13 and 58 of the New Jersey General Statutes; the Toxic Substances Control Act, 15 United States Code 1251 et seq.; the Resource Conservation and Recovery Act, 42 United States Code 6901 et seq.; the Clean Water Act, 33 United States Code 1251 et seq.; the Clean Air Act, 42 United States Code 7401 et seq.; the Safe Drinking Water Act, 42 United States Code 300f-300j; and the Comprehensive Environmental Response Compensation and Liability Act, 42 United States Code 9601 et seq.

“Land Use and Building Requirements” shall have the meaning set forth in the Redevelopment Plan.

“Person” means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or corporation, trust, unincorporated association, institution, public or governmental body, or any other entity.

“Phase or Phases” shall mean the phased sequence of the development of the Project as set forth on Exhibit B.

“Planning Board” means the Planning Board of the Township of Carneys Point.

“Project” means the redevelopment of the Project Site (to be named “ ”) consisting of (i) the acquisition of the Acquisition Parcels comprising the Project Site, either by voluntary acquisition by Redeveloper or by condemnation by the Township and the relocation of any residents and businesses displaced by the Project, (ii) the demolition, investigation, remediation and clearance of the Project Site, (iii) the obtaining of applicable Governmental Approvals for all Project Improvements, (iv) the financing, construction and completion of all Project Improvements and (v) the marketing, sale and rental of residential units and marketing and sale or leasing of retail and office units

“Project Completion Date” is the date set forth in the Project Schedule by which Redeveloper shall provide the Written Certification, as defined in Section 2.4, for the Project.

“Project Costs” shall have the meaning set forth in Article X.

“Project Improvements” means all buildings, structures, improvements, site preparation work, Infrastructure Improvements and amenities both private and public necessary for the implementation and completion of the Project or any Phase thereof and described in Article II and on Exhibit B, which shall be consistent with the Design Criteria and Quality Standards of the Redevelopment Plan.

“Project Proposal” means the Proposal submitted by Redeveloper dated July 29, 2005.

“Project Improvements and Phasing” shall mean the list of Project Tasks and Completion Dates set forth on Exhibit B.

“Project Site” means those properties described in Exhibit A.

“Redeveloper” means Heritage Building Group, Inc.

“Redeveloper Fault” means any breach, failure, non-performance or non-compliance by the Redeveloper with the terms and conditions of this Agreement or the terms of any Governmental Approvals applicable to the Redeveloper, caused by any act or omission of any

director, officer, agent, employee, contractor, subcontractor of any tier or independent contractor of the Redeveloper which prevents or delays the Township or the Redeveloper from performing their respective obligations under the terms of this Agreement.

“Redevelopment Agreement” means this Agreement between the Township and Redeveloper and any written amendments and supplements hereto.

“Redevelopment Area” is the redevelopment area within which the Project Site is located, as more specifically delineated in the Redevelopment Plan, as amended from time to time.

“Redevelopment Law” shall mean the *Local Redevelopment and Housing Law*, N.J.S.A. 40A:12A-1 et seq.

“Redevelopment Plan” means the Mayor’s Citizens Advisory Redevelopment Committee, Carneys Point Township: Building a Bridge to Prosperity, dated August 27, 2003, as amended and supplemented, attached hereto as Exhibit H.

“Relocation Assistance” means the financial and other assistance specified in this Agreement and as required under N.J.S.A. 52:31B-1 et seq., N.J.S.A. 20:4-1 et seq., and regulations promulgated thereunder, N.J.A.C. 5:80-1.1 et seq., to be provided to persons or entities displaced by the Project.

“Uncontrollable Circumstance” means the following acts, events or conditions or any combination thereof (other than a labor strike by the Redeveloper, its employees, Affiliates or subcontractors, except as provided in subparagraph e hereof) that has had or may be reasonably expected to have a direct, material, adverse effect on the rights or obligations of the parties to this Agreement; provided however that such act, event or condition shall be beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under the terms of this Agreement:

(a) an act of God, lightning, blizzards, hurricane, tornado, earthquake, acts of a public enemy, war, blockade, insurrection, riot or civil disturbance, terrorism, sabotage or

similar occurrence, but not including reasonably anticipated weather conditions for the geographic area of the Project, other than those set forth above;

(b) a landslide, fire, explosion, flood or nuclear radiation not created by an act or omission of either party hereto;

(c) the order, judgment, action and/or determination of any Federal, State or local court, administrative agency or governmental body with jurisdiction within the Township adversely affecting the construction of the Project; provided however, that such order, judgment, action and/or determination shall not be the result of the illegal or unlawful actions of the party to this Agreement relying thereon and that neither the contesting of any such order, judgments, action and/or determination, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such party;

(d) the suspension, termination, denial or failure of or delay in renewal or issuance of any Governmental Approval (as evidenced by written notices from the regulatory agency having jurisdiction over such matter), provided however, that such suspension, termination, interruption, denial or failure of or delay in renewal or issuance shall not be the result of the willful, intentional or negligent action or inaction of the party relying thereon and that neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as a willful, intentional or negligent action or inaction by such party. The Redeveloper's failure to make a reasonable effort to make an administratively complete submission for a Governmental Approval shall be a Redeveloper Fault and not an Uncontrollable Circumstance, if it results in the Redeveloper being unable to comply with the Project Schedule. In the event that an Uncontrollable Circumstance arises with respect to a Governmental Approval, Redeveloper shall be required to progress with all aspects of the Project to which the

Governmental Approval does not apply, unless Redeveloper can demonstrate to the reasonable satisfaction of the Township that it would be impracticable to proceed with such construction.

(e) strikes or similar labor action by equipment manufacturers, suppliers of material and/or transporters of same.

The parties hereto acknowledge that the acts, events or conditions set forth in paragraphs (a) through (e) above are intended to be the only acts, events or conditions which may (upon satisfaction of the conditions specified above) constitute an Uncontrollable Circumstance.

“WRAP” means the Workable Relocation Assistance Plan as defined under N.J.A.C. 5:40-6.1.

SECTION 1.2. Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) All approvals, consents and acceptances required to be given or made by any person or party hereunder shall not be unreasonably withheld, delayed or conditioned.

(b) All notices to be given hereunder shall be given in writing in conformance with Section 15.1 hereof, and, unless a certain number of days is specified, within a reasonable time.

(c) This Agreement shall become effective upon its execution by the parties hereto, and shall remain in full force and effect from such date until the Project has been implemented and completed, as evidenced by the issuance of the Certificate of Completion, in accordance with the terms of this Agreement, the Redevelopment Plan and the requirements of the approved final site plan and any other Governmental Approvals.

## ARTICLE II

### IMPLEMENTATION OF PROJECT

#### SECTION 2.1. Implementation of Project.

The Redeveloper agrees, at its sole cost and expense, to implement the Project consistent with the Redevelopment Plan and in accordance with the terms and conditions of this Agreement. All activities performed under this Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by developers of first class mixed-use development. Redeveloper agrees to do everything possible to maximize the sale price of the units. (b) Conditions Precedent. The Redeveloper shall have no obligation to commence the Infrastructure Improvements and the Project Improvements prior to the satisfaction of all Conditions Precedent. The term "Conditions Precedent" shall mean the happening of the following events:

- (i) Acquisition by the Redeveloper of title to all land in Phase I of the Project.
- (ii) Receipt of all Governmental Approvals from all appropriate parties and agencies for the implementation of the Infrastructure Improvements and the Project Improvements for Phase I of the Project.

The Redeveloper and the Township shall exercise their reasonable best efforts to cause the happening of each of the Conditions Precedent in a timely manner. The Redeveloper may, in its sole discretion, waive in writing any Condition Precedent.

(c) Failure to Satisfy Conditions Precedent. If, after the passage of thirty-six (36) months from the Contract Date, the Conditions Precedent shall not have been satisfied for Phase I of the Project, all as more particularly described on Exhibit "B", and the Redeveloper is not otherwise in default hereunder, the Redeveloper may deliver to the Township written notice

of its election to terminate this Agreement (the “Termination Notice”), in which case this Agreement and, except as otherwise provided herein, the rights and obligations of the parties hereunder shall immediately terminate.

(d) If, after the passage of thirty-six (36) months from the Contract Date, Redeveloper has not acquired title to all land in Phase I of the Project, and the Township is not otherwise in default hereunder, the Township may deliver to the Redeveloper written notice of its election to terminate this Agreement in which case this Agreement and, except as otherwise provided herein, the rights and obligations of the parties hereunder shall immediately terminate.

(d) Redeveloper shall notify Township in writing when it has acquired sufficient property for the construction of Phase I as set forth in Exhibit B. If by 18 months after the Contract Date Redeveloper is unable to acquire sufficient property for the construction of Phase I, it shall notify the Township in writing of such inability. Such notice will include a comprehensive list of all the property deemed necessary for the construction of Phase I along with a description of which properties have been acquired (“Acquired Property”) and which properties the Redeveloper has been unable to acquire (“Un-acquired Property”). Upon receipt of such written notice, the Township may elect to grant the Redeveloper an extension of time within which to obtain the Un-Acquired Property by voluntary acquisition. The failure of the Township to grant such an extension within 30 days of such notice shall be a denial of such request and shall be deemed as a request by the Redeveloper to the Township to proceed with condemnation of the Un-Acquired Property pursuant to the procedures set forth in Sections 7.3 – 7.6 and shall obligate the Redeveloper to comply with all obligations set forth in Sections 7.3 – 7.6.

SECTION 2.2. Project Site and Uses. The Project will include a mixed use development consisting of residential, Age Qualified residential, retail and commercial, and various onsite and



off site public and private amenities all as more specifically described herein and in Exhibit B. Redeveloper shall construct no more than 1,200 residential units of which at least 500 shall be Age Qualified residential units. The timing of the construction of the Project shall be in accordance with the description set forth in Exhibit B.

The Project shall consist of (5) phases as specifically set forth in Exhibits B. The Project Schedule shall control the progress and completion of the Project. The Redeveloper will adhere to the Project Schedule subject only to relief resulting from the occurrence of an Uncontrollable Circumstance.

If the Redeveloper fails to meet the Project Schedule set forth on the Project Schedule or determines that it will fail to meet the Project Schedule, Redeveloper shall promptly provide notice to the Township stating: (a) the reason for the failure to complete the applicable task, (b) Redeveloper's proposed method for correcting such failure, (c) Redeveloper's schedule for completing such task, and (d) the method or methods by which the Redeveloper proposes to achieve subsequent tasks by the relevant date in the Project Schedule. This Section shall not in any way limit the rights of the Township under Article XIII of this Agreement.

SECTION 2.3. Infrastructure Improvements. The Redeveloper will design and construct the Infrastructure Improvements set forth in Exhibit B-1 in a good and workmanlike manner and in accordance with all applicable laws and regulations. Redeveloper acknowledges that the Infrastructure Improvements may include, but are not limited to, electric power transmission lines, sewer transmission conduits or pipes, water lines or pipes, storm sewers, telephone transmission lines, television cable lines and other utilities. The Redeveloper agrees that it is solely responsible to undertake the appropriate measures to negotiate with, acquire, relocate or otherwise address the existence of these utilities and improvements and easements therefor, in order to complete the Project as provided by this Agreement. The Township agrees to cooperate

with Redeveloper and to make all reasonable efforts to assist Redeveloper, including providing information regarding infrastructure improvements.

SECTION 2.4. Certificates of Completion. The completion of the Project or any Phase thereof shall be evidenced by a certificate ("Certificate of Completion") in recordable form, issued by the Township. The Certificate of Completion shall state, as to the applicable portion of the Project, that (i) the Township accepts the terms of a written certification of a duly authorized officer of Redeveloper stating that (a) the Project Improvements have been completed and all labor, services, materials and supplies used in connection thereto have been paid for (or, if disputed, bonded for), and (b) Redeveloper has performed all of its duties and obligations under this Agreement; and (ii) the Township accepts the certification of an architect that the Project or applicable portion thereof has been completed.

The Certificate of Completion shall constitute a conclusive determination of the satisfaction and termination of the agreements and covenants in this Agreement and in the Redevelopment Plan with respect to the Redeveloper's obligation to construct the Project or applicable portion thereof within the dates for the commencement and completion of same. Upon issuance of the Certificate of Completion, the conditions determined to exist at all applicable portions of the Project, at the time the Project Site was determined to be an area in need of redevelopment shall be deemed to no longer exist and the land and improvements within the applicable portions of the Project Site shall no longer be subject to eminent domain as a result of those determinations.

The Township shall not unreasonably withhold or delay the delivery of a Certificate of Completion. If the Township determines that the Redeveloper is not entitled to a Certificate of Completion, the Township shall deliver written notice of such determination to the Redeveloper, within thirty (30) days of such determination, which written notice shall include a written

statement of the reasons the Township refused or failed to furnish a Certificate of Completion. Upon resolution of the open issues, Redeveloper shall be entitled to receive a Certificate of Completion.

SECTION 2.5. Prohibition Against Suspension, Discontinuance or Termination. Once the Redeveloper commences a particular Phase of the Project, the Redeveloper shall not suspend or discontinue its performance of its obligations under this Agreement or terminate this Agreement (other than in the manner provided for herein) for any reason other than an Uncontrollable Circumstance, but only to the extent and for the period of time that such performance is limited or prevented as a direct result of such occurrence and subject to such time as Redeveloper may reasonably require to re-commence its development activities.

SECTION 2.6. Designation of Redeveloper. Redeveloper is hereby designated as redeveloper for the Project Site and shall have the exclusive right to redevelop and implement the Project in accordance with the terms and conditions of this Agreement.

SECTION 2.7. COAH Housing Obligation. Redeveloper understands and agrees that the Project consists of commercial and residential components that result in an affordable housing obligation under the rules of the N.J. Council on Affordable Housing ("COAH") and that the Township has an outstanding Second Round COAH obligation of 60 units. Redeveloper also understands and agrees that the Township will have a Third Round COAH obligation. Redeveloper shall have the obligation to satisfy the affordable housing obligation set forth in Exhibit B. It shall satisfy all of those Third Round COAH obligations on behalf of the Township which arise as a result of the construction of the Project, by way of the construction of for-sale or rental units or otherwise provide satisfactory affordable housing opportunities that are in compliance with COAH rules and regulations in effect at the time the obligation arises, at no cost to the Township. This requirement shall be a condition of any site plan approval that the

Planning Board may grant. The Township agrees and acknowledges that the Redeveloper may construct such affordable housing anywhere within the Township within or outside the Redevelopment Area and such obligation to construct shall be consistent with the Township's COAH Housing Obligation

SECTION 2.8.Satisfaction of Second Round COAH Housing Obligation. The Township represents and warrants to the Redeveloper that the Second Round COAH Obligation consists of sixty (60) affordable housing units. By no later than November 1, 2006, the Redeveloper will provide the Township with a draft plan, describing in detail the manner in which the satisfaction of the Second Round COAH obligation will be accomplished. The draft Plan shall include a description of the housing units to be constructed, the sites on which such units are to be located, the date that such units will be provided and an approved financing method. Upon receipt of any comments by the Township on such plan, by no later than November 30, 2006, Redeveloper shall provide a final plan describing in detail the manner in which the satisfaction of the Second Round COAH obligation will be financed in such form as to permit submittal of such plan to the N.J. Council on Affordable Housing. By no later than November 15, 2006, the Redeveloper shall either own or have entered into a contractual agreement to acquire all of the real property on which the Second Round COAH obligation will be constructed. Redeveloper shall complete the construction of the Second Round COAH obligation by no later than 2 years after submission of the final plan to COAH describing the manner in which the satisfaction of the Second Round COAH obligation will be financed. The obligations contained in this Paragraph shall are not contingent upon any other aspect of the Project and shall survive the Termination of the Agreement.

SECTION 2.9.Intentionally Omitted

### ARTICLE III

#### GENERAL REPRESENTATIONS AND WARRANTIES

SECTION 3.1. Representations and Warranties by the Redeveloper. The Redeveloper hereby represents and warrants the following to the Township for the purpose of inducing the Township to enter into this Agreement and to consummate the transactions contemplated hereby, all of which are true as of the date hereof:

(a) The Redeveloper is a corporation of the State of Pennsylvania, is qualified to do business and in good standing under the laws of the State of New Jersey, and has all requisite power and authority to carry on its business as now and whenever conducted, and to enter into and perform its obligations under this Agreement.

(b) The Redeveloper has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the Redeveloper is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.

(c) This Agreement is duly executed by the Redeveloper, and is valid and legally binding upon the Redeveloper and enforceable in accordance with its terms. The execution and delivery hereof shall not constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Redeveloper is a party.

(d) Except as disclosed on Exhibit D, if any, there is (i) no material action, suit, proceeding or official investigation has been threatened, publicly announced or commenced by any federal, state or local governmental authority or agency, or in any federal, state or local court, that seeks to enjoin, assess civil or criminal penalties against, assess civil damage against or obtain any judgment, order or consent decree (A) with respect to the Redeveloper, (B) to the

Redeveloper's knowledge, with respect to this Agreement or to any of the agreements which are referred to herein as a result of the Redeveloper's negotiation, execution, delivery or performance of any such agreement or its participation or intended participation in any transaction contemplated hereby or thereby; except that this paragraph shall not apply to any material action, suit, proceeding or official investigation not involving criminal penalties which does not challenge the validity, binding effect or enforceability of any of the agreements which are referred to in this Agreement, and which, if adversely determined, would not materially adversely affect any of such agreements, the performance by the Redeveloper of its obligations hereunder or thereunder or the transactions contemplated thereby; (ii) no receiver, liquidator, custodian or trustee of the Redeveloper or of a major part of such entity's property, has been appointed as of the Contract Date, and no petition to reorganize the Redeveloper pursuant to the United States Bankruptcy Code or any similar statute which is applicable to the Redeveloper has been filed as of the Contract Date; (iii) no adjudication of bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by the Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute which is applicable to the Redeveloper has been filed; and (iv) to the Redeveloper's knowledge, no indictment has been returned against any official of the Redeveloper.

(e) Except as disclosed on Exhibit D, if any, there is no pending, or to the best of the Redeveloper's knowledge, threatened litigation which would prevent the Redeveloper from performing its duties and obligations hereunder or have a material adverse effect on the financial condition of the Redeveloper.

SECTION 3.2. Representations and Warranties by Township. The Township hereby represents and warrants the following to the Redeveloper for the purpose of inducing the

Redeveloper to enter into this Agreement and to consummate the transactions contemplated hereby, all of which is true as of the date hereof:

(a) The Township has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the Township is a party, to consummate the transactions contemplated hereby, and to perform their obligations hereunder.

(b) This Agreement is duly executed by the Township and is valid and legally binding upon the Township and enforceable in accordance with its terms on the basis of laws presently in effect and the execution and delivery of this Agreement shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Township is a party.

(c) Except as disclosed on Exhibit D, if any, there is no pending, or to the best of the Township's knowledge, threatened litigation which would prevent the Township from entering into this Agreement or from performing its duties and obligations hereunder.

#### **ARTICLE IV**

##### **ACKNOWLEDGMENT OF RECEIPT OF COLLATERAL DOCUMENTS**

SECTION 4.1. Simultaneous Delivery of Documents by Redeveloper. The Redeveloper and the Township agree that the rights, obligation and liabilities of the parties under this Agreement are conditioned upon the delivery of the following fully executed collateral documents and hereby acknowledge the receipt of such documents, simultaneously with the execution of this Agreement:

(a) Certified copies of the Certificate of Formation and Certificate of Good Standing of the Redeveloper.

(b) A comprehensive list of the names, addresses and phone numbers of all principals who will comprise Redeveloper's "Project Team" including, but not limited to, those individuals who will be directly responsible for managing the Project design, approvals and construction which are set forth on Exhibit F.

(c) A comprehensive list of all anticipated Governmental Approvals necessary for the Project which list shall be updated as part of the Progress Reports.

SECTION 4.2. Simultaneous Delivery of Documents by Township. Simultaneously with the execution of this Agreement, the Township shall provide the Redeveloper with the following:

(a) A certificate of a duly authorized representative of the Township that all properties in the Project Site as set forth on Exhibit A have been designated as Redevelopment Areas and included in the Redevelopment Plan as properties listed for acquisition.

(b) A copy of the Ordinance adopting the Redevelopment Plan for the Project, and a certificate of a duly authorized representative of the Township that such Ordinance remains unmodified and in full force and effect.

## **ARTICLE V**

### **PROJECT LAND USE AND BUILDING REQUIREMENTS**

SECTION 5.1. Land Use and Building Requirements. All applications for Governmental Approvals shall be consistent with the Land Use and Building Requirements in the Redevelopment Plan as amended from time to time in accordance with the terms of this Agreement, attached hereto as Exhibit H. The Redeveloper shall not construct any Project Improvements which deviate from the Redevelopment Plan without prior written approval from the Township.



SECTION 5.2. District and Design Standards. All Project Improvements shall be constructed in substantial compliance with the District and Design Standards set forth in the Redevelopment Plan as the same shall be amended for the Project. All applications for Governmental Approvals shall be consistent with the District and Design Standards.

SECTION 5.3. Variances. Redeveloper acknowledges and agrees that the Project shall be implemented consistent with the Redevelopment Plan and the Redeveloper shall not be permitted to seek variances for the Project from the Township Planning or Zoning Boards. Any such changes must be sought by way of amendment to the Redevelopment Plan. The Township shall not unreasonably deny, condition or delay any reasonable request by Redeveloper for one or more amendments to the Redevelopment Plan, provided all such amendments, if any, shall be accomplished in accordance with applicable law.

## **ARTICLE VI**

### **PROJECT APPROVALS**

SECTION 6.1. Governmental Approvals. The parties acknowledge that the Project requires local, county, state and federal Governmental Approvals. Upon execution of this Agreement, the Redeveloper shall provide the Township with a detailed list of all known Governmental Approvals, including a general development plan approval for the Project, which need to be obtained by the Redeveloper in order satisfy its obligation under the Agreement and shall update the list as part of the Progress Reports, as set forth in Section 8.2.. The Redeveloper shall use diligent efforts to secure, or cause to be secured at is own expense any and all Governmental Approvals which may be required by any governmental agency with jurisdiction over the Project. The Township agrees to fully cooperate with, and to use all reasonable efforts to assist, Redeveloper in obtaining the Governmental Approvals, without material cost or

expense to the Township. Without limiting the generality of the foregoing, the Township agrees that it will not unreasonably deny, condition or delay the issuance of any Governmental Approval required of or from the Township. Redeveloper shall provide the Township copies of any and all relevant applications or petitions seeking Governmental Approvals seven (7) business days prior to the filing thereof for review. To the extent that the Township has not responded to such applications or submissions within said seven day period, they shall be deemed approved except with respect to the approval of any permits which apply to Township Parcels which shall not be deemed approved until actually approved by the Township..

SECTION 6.2. Local Planning Approval. The Redeveloper shall submit applications for preliminary and final site plan approvals and any subdivision to the Planning Board in accordance with the Project Schedule.

SECTION 6.3. No Warranty of Suitability. The Redeveloper specifically acknowledges that the Township makes no representation or warranty, expressed or implied or otherwise, as to the Project or the Project Site's fitness for use for any particular purpose, condition or durability thereof, or that it will be suitable for the Redeveloper's purposes.

## **ARTICLE VII**

### **ASSEMBLAGE OF PROPERTY**

#### **SECTION 7.1. Redeveloper's Acquisition Responsibility.**

(a) With the exception of the Township Parcels, Redeveloper shall use all reasonable efforts, at its sole cost and expense, to execute contracts of sale through good faith negotiations with all of the property owners in the Project Site in accordance with the Project Schedule and to close on each property within the Project Site by the Closing date set forth in the

Project Schedule. On the basis of successful negotiations, the Redeveloper and owner(s) of record shall enter into separate agreements for purchase and sale for the relevant parcel(s) of property. As part of the purchase and sale agreements, Redeveloper shall seek to obtain a written release and/or waiver from the owner of record and its tenants with respect to any and all relocation requirements under the relocation laws of New Jersey.

(b) The Township will provide to the Redeveloper a list of the properties (the "Properties") located in the Redevelopment Area which are subject to tax sale certificates. The Redeveloper will review each of the Properties and indicate in writing to the Township which of the Properties the Redeveloper desires to acquire (the "Desired Properties"). The Redeveloper will pay the amount of all outstanding taxes together with interest and other charges owed on the Desired Properties to the Township ("Tax Sale Deposit") The Township will diligently pursue In Rem Tax Sale foreclosure actions against each of the Desired Properties. The Redeveloper will pay all of the Township's reasonable costs incurred in prosecuting the In Rem Tax Sale foreclosure actions against each of the Desired Properties. In the event the owner of any of the Desired Properties redeems the tax sale certificate, all proceeds of the redemption will go to the Redeveloper up to the sum of the initial Tax Sale Deposit plus all reasonable costs paid by the Redeveloper in prosecuting the In Rem Tax Sale action, (such reasonable costs including, but not limited to, attorneys fees, search fees, all actual interest/carry charges incurred by Redeveloper from the date of payment the Tax Sale Deposit for the redeemed property through the actual date of redemption, additional taxes and all other costs related to the foreclosure actions) with any additional monies going to the Township. In the event, there is no redemption then upon the Township's acquisition of title, the Township will convey each of the Desired Properties to the Redeveloper and the Redeveloper will accept title to such Properties in an "as is" condition. Redeveloper acknowledges and agrees that the conveyance of the Desired Properties from the

Township to the Redeveloper may trigger the provisions of the Industrial Site Recover Act, N.J.S.A. §13:1K-6 et seq. ("ISRA"). Redeveloper further agrees and acknowledges that Redeveloper shall be solely responsible for the satisfaction of all requirements of ISRA, including the payment of all costs and fees and the posting of any financial assurance required as a result of the transfer of the Desired Properties from the Township to Redeveloper.

(c) The Redeveloper and Township agree that an In Rem Tax Sale foreclosure action shall be instituted in order to acquire Block 247, Lots 1 & 2, (the "Clemente Properties"). Within 60 days of the Contract Date, Redeveloper shall pay to the Township the amount of all outstanding taxes together with interest and other charges owed on the Clemente Properties and the Township will pursue, pursuant to the procedure set forth in Section 7.1(b), In Rem Tax Sale foreclosure actions to foreclose the right of redemption of the Clemente Properties. Failure by the Redeveloper to make such payment within 60 days of the Contract Date shall constitute an Event of Default of this Agreement.

(d) Redeveloper acknowledges and agrees that the conveyance of the Clemente Properties from the Township to the Redeveloper will trigger the provisions of the Industrial Site Recover Act, N.J.S.A. §13:1K-6 et seq. ("ISRA"). Redeveloper further agrees and acknowledges that Redeveloper shall be solely responsible for the satisfaction of all requirements of ISRA, including the payment of all costs and fees and the posting of any financial assurance required as a result of the transfer of the Clemente Properties from the Township to Redeveloper.

(e) The Redeveloper shall notify the Township within ten (10) days after the execution of each contract of sale and shall inform the Township of any scheduled Closing(s) of title. After the Closing of title to each parcel acquired by direct negotiation between the

Redeveloper and the owner(s) of record, the Redeveloper shall be responsible for the payment of all future real estate taxes and other impositions lawfully imposed upon the subject parcel of property.

(f) Redeveloper shall acquire the Township Parcels and the Township shall provide the Closing documents required under Section 7.10 for the same no later than as set forth in the Project Schedule.

(g) Intentionally Omitted.

SECTION 7.2. Property Notice. If the Redeveloper does not acquire title to or execute a purchase and sale agreement for all parcels within the Project Site by the deadline set forth in the Project Schedule, the Redeveloper shall immediately thereafter notify the Township of the same (hereinafter "Property Notice"). The Property Notice shall be accompanied by: (a) the Condemnation Funds as required by this Agreement; (b) copies of any title work, surveys and the estimate of costs for any reasonably necessary environmental mitigation, remediation or clean up, and any appraisals performed directly by or on behalf of the Redeveloper; and (c) the Pre-Condemnation Environmental Assessment together with the Estimated Environmental Costs undertaken pursuant to Section 7.3(b).

SECTION 7.3. Condemnation Procedures.

(a) If the Redeveloper does not enter into a contract to acquire any Acquisition Parcel prior to the time required by the Project Schedule, with the exception of the Township Parcels, and the Redeveloper has negotiated in good faith to acquire such Acquisition Parcel, then upon 30 days written notice to the Township, the Township agrees to take all necessary steps to exercise its power of condemnation to acquire title to the Acquisition Parcels or any portion thereof, in accordance with the Act and the Eminent Domain Act, N.J.S.A. 10:3-1 et seq., provided that Redeveloper is in compliance with this Agreement. It is the agreement of

the parties that condemnation will not be used to acquire the portion of any property actually used for residential purposes, and thus Township and Redeveloper acknowledge and agree that in no event will the Redeveloper request nor will the Township agree to exercise the power of condemnation to acquire the structures or portions of property in the Redevelopment Area located within land devoted to agricultural or horticultural use but which, pursuant to N.J.S.A. 54:4-23.12, are valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and land in the Township. The Township and Redeveloper agree and acknowledge that such structures and portions of property listed in Exhibit C are not necessary to the completion of the Project.

(b) For every property in the Project Site, the Township shall exercise all reasonable efforts to obtain and provide to the Redeveloper access to the property in accordance with N.J.S.A. 40A:12A-8 and/or N.J.S.A. 20:3-16, and the Redeveloper shall undertake an environmental investigation (“Pre-Condemnation Environmental Assessment”) and determine the estimated remediation cost of any Hazardous Substance that the Pre-Condemnation Environmental Assessment reveals as an area of concern (“Estimated Environmental Costs”). All costs reasonably incurred by the Township in obtaining site access for Redeveloper for the purpose of environmental investigation and preparation of the Pre-Condemnation Environmental Assessment and Estimated Environmental Costs, together with any costs incurred by the Township in reviewing the same, shall be considered Condemnation Costs.

(c) For every property in the Project Site and identified in the Redeveloper’s Property Notice, the Township shall obtain Condemnation Appraisal(s) for each of the relevant parcels(s) identified in the Redeveloper’s Property Notice and commence bona fide negotiations to acquire the subject property from the owner(s) of record.

(d) The Township shall not commence condemnation proceedings until it has (1) obtained the Property Notice together with all submittals required under Section 7.2, (2) concluded bona fide negotiations with the relevant property owner(s) of record, (3) provided a copy of the Condemnation Appraisal(s) to the Redeveloper. For purposes of this section of the Agreement, bona fide negotiations mean that the Redeveloper has obtained at least two (2) condemnation appraisals of the applicable property from a real estate appraiser, reasonably acceptable to the Township, and makes a good faith offer to such property owner in amount equal to or greater than the higher of the two appraisals." The condemnation complaint(s) shall include appropriate environmental allegations and reservations of rights with respect to cost recovery. The Township shall consult with the Redeveloper prior to filing and recording a Declaration of Taking. Upon motion by the condemnee to withdraw the fair market value of the Condemnable Property from Court, the Township will object to the withdrawal of the Estimated Environmental Costs and will seek an order allowing the court to hold the Estimated Environmental Costs as potential cost recovery damages. Any costs incurred by the Township in pursuing the non-release of the Estimated Environmental Costs shall be considered Condemnation Costs.

(e) Redeveloper shall undertake a cost recovery action against property owners and other responsible parties.

SECTION 7.4. Condemnation Costs. The Redeveloper shall pay all reasonable costs, expenses and fees of any kind reasonably incurred by the Township in acquiring the Project Site ("Condemnation Costs"), including, but not limited to:

(a) the price paid or to be paid to the property owners which shall be the just compensation value determined by the condemnation process either in bona-fide

negotiations with the property owner or as a result of the proceedings before the Condemnation Commissioners or the court,

(b) all reasonable out-of-pocket costs and fees incurred in complying with the Act and the Eminent Domain Act, including, but not limited to, professional services, attorneys fees, expert fees, inspections, surveying, appraisals, environmental investigations, court deposits (required by *N.J.S.A. 20:3-18*) and court costs and fees associated with bona-fide negotiations, commissioner's hearings, court proceedings and challenges to the condemnation.

(c) Any and all Relocation Assistance, to the extent that such costs and expenses are required under the applicable provisions of relocation laws of the State of New Jersey, including all costs and expenses associated with the development of the WRAP;

(d) Attorney fees for the Township's condemnation counsel incurred in connection with representation of the Township's interests;

(e) Title Insurance Costs, including premiums and search fees;

(f) Liability and property insurance premiums and costs;

(g) Any Pre-Condemnation Environmental Assessment costs incurred by the Township;

(h) All costs incurred by the Township in preparing the Estimated Environmental Costs;

The Township shall provide Redeveloper with monthly written invoices of all Condemnation Costs. The Township agrees to coordinate with Redeveloper regarding the condemnation proceedings.

In addition to the aforementioned Condemnation Funds, Redeveloper shall deposit with the Township an amount equal to one hundred and ten percent (110%) of the offer price as established by the Township appraisal (or a Letter of Credit for such amount) prior to the time



for deposit of money into court, otherwise the Township may not proceed with condemnation proceedings to acquire the relevant parcel of property. Within fifteen (15) business days of receipt of Notice from the Township, or such lesser time as to permit compliance with a Court Order, Redeveloper shall immediately deposit with the Township such additional funds required by the condemnation proceedings. The Redeveloper shall take all necessary steps and make all necessary payments to or on behalf of the Township in a timely fashion to meet this obligation of the Agreement. Redeveloper shall provide condemnation deposits to the Township by bank cashier's check or certified check of Redeveloper, payable either to the Township or to "Clerk, Superior Court of New Jersey."

(c) In the event that during the prosecution of an eminent domain action the Court orders the Township to place into escrow an amount in excess of the offer price previously deposited into Court, Redeveloper shall remit to the Township the amount in excess of said offer price, within fifteen (15) business days after receiving notice from the Township, or such lesser time as to permit compliance with a Court Order.

SECTION 7.5 Litigation Procedure. With respect to any condemnation proceedings instituted by the Township, the Redeveloper agrees that the Township shall be entitled to appoint legal counsel reasonably satisfactory to the Redeveloper to conduct said condemnation proceedings and shall have the right to hire appraisers, surveyors and such other professionals reasonably satisfactory to the Redeveloper as may reasonably be required in connection with such condemnation proceedings, the costs of which are deemed to be Condemnation Costs. Redeveloper agrees and acknowledges that counsel currently used by the Township for condemnation matters as well as the firm of Maraziti, Falcon & Healey are satisfactory for the purposes of this Section. The Township agrees that it will cause any attorney retained by it to negotiate the acquisition of the relevant property or to prosecute any condemnation action, in

consultation with Redeveloper and its professionals and to frequently provide the Redeveloper with status update reports on all negotiations and any condemnation proceedings. The Redeveloper, the Township and the Township's counsel shall discuss all strategies such attorney proposes, including settlement limits and strategies. The Redeveloper shall have the power to recommend to the Township to settle any claim and the Township agrees it will not settle or compromise any claim without Redeveloper's consent, which consent shall not be unreasonably denied or delayed.

SECTION 7.6 Relocation. The Township with the assistance of Redeveloper shall be responsible for providing relocation assistance to all residents and businesses displaced by the Project and shall comply with the requirements of the Relocation Assistance Law of 1967, N.J.S.A. 52:31B-1 et seq., and the Relocation Assistance Act of 1971, N.J.S.A. 20:4-1 et seq. (collectively, the "Relocation Laws"). Redeveloper will gather relevant data and provide same to the Township in order that the Township may fulfill its responsibility to prepare a Workable Relocation Assistance Plan ("WRAP") and submit said WRAP to the Department of Community Affairs ("DCA"). Both parties shall cooperate and use their best efforts to submit the WRAP to DCA by the date set forth in the Project Schedule. The Township may retain a relocation consultant to provide professional services in connection with providing relocation assistance to displaced residents and businesses. Redeveloper and the Township shall cooperate fully as necessary to prepare the WRAP and all applications and submissions that are required to be signed. All costs relating to relocation, including preparation of the WRAP and the payment of relocation assistance, shall be paid by Redeveloper and shall be included in Township Costs, as set forth in Section 10.4. In the event that Redeveloper acquires any property within the Project Site through bona fide negotiations, Redeveloper shall provide to the Township releases from the

property owner and the tenants with regard to relocation assistance, in a form satisfactory to the Township.

SECTION 7.7 Environmental Conditions of the Project Site. As between Redeveloper and the Township, Redeveloper agrees and specifically assumes, at its sole expense, any and all responsibility for the investigation and remediation of all environmental conditions on, under or migrating to or from the Project Site, as may be required by applicable environmental laws and regulations, regardless of whether the property is owned or acquired by the Township. Redeveloper also agrees to obtain all environmental approvals for the cleanup of the Project Site, including but not limited to a No Further Action Letter and Covenant Not to Sue from the New Jersey Department of Environmental Protection (NJDEP) with respect to any such environmental conditions. The Township shall cooperate with Redeveloper's efforts to obtain said approvals from the NJDEP and other applicable agencies, if any. The Township also agrees to cooperate with Redeveloper in seeking sources of public funding (other than Township funding) for which the Township and/or the Redeveloper may be eligible and which may be applied to the investigation and remediation of the environmental conditions by Redeveloper. Any costs to apply for, procure and administer such funding will be borne solely by the Redeveloper.

SECTION 7.8 Conveyance of Acquisition Parcels. Every Acquisition Parcel acquired by the Township shall be conveyed to the Redeveloper by quitclaim deed no later than twenty five (25) days after acquisition by the Township. The Township shall promptly file and record in the Office of the Clerk of Salem County the deed to the relevant Acquisition Parcels (or portions thereof) if acquired by Purchase Agreement and, with Redeveloper's written consent, a Declaration of Taking, if acquired by condemnation proceedings. If the Township has not designated Redeveloper as grantee on any such instrument, the Township will then convey the

property interest acquired to Redeveloper no later than twenty five (25) days after acquisition by the Township by proper instrument and subject to payment of all outstanding financial obligations of the Redeveloper..

SECTION 7.9     Documents to be Delivered at Closing. The Township shall deliver the following documents at each Closing: (1) Quitclaim Deed; (2) Affidavit of Title; (3) Township Ordinance approving the sale; (4) Title Closing Statement; and (5) such other document(s) required under this Agreement. The Redeveloper shall deliver the following documents at Closing: (1) Closing funds to the extent not previously provided; (2) Title Closing Statement; (3) Corporate Certificate.

SECTION 7.10    Delivery of Possession. Possession of all lands to be conveyed by the Township pursuant to this Agreement, shall be delivered to Redeveloper “as is” by the Township at each Closing, by quitclaim deed as set forth above. The Township agrees to convey to Redeveloper and Redeveloper agrees to purchase the Township Parcels upon and subject to the terms and conditions of this Agreement. The Township Parcels shall be conveyed by quit claim deeds, on the dates hereinafter fixed for the Closings. Until delivery of the Township Parcels at each Closing, risk of loss with respect to those parcels, except with respect to the Redeveloper’s activities on the property, shall be the Township’s.

SECTION 7.11    Title. The Redeveloper acknowledges that there may be certain title issues regarding the Project Site which may need to be addressed by the State of New Jersey, including but not limited to, riparian rights, wetlands and tidelands, which shall be the responsibility of the Redeveloper. The Township agrees to assist in resolving such issues where it has authority to do so.

SECTION 7.12    Taxes and Tax Assessments. The Redeveloper agrees that there shall be no real property tax abatements, payments in lieu of taxes, credits or reductions in sewer or

water or construction fees for the Project Site properties and Redeveloper's financial commitment herein is not conditioned in any way upon the receipt of the same. Notwithstanding the foregoing, the Township shall consider utilizing the financing mechanisms set forth in the Redevelopment Area Bond Financing Law, N.J.S.A., 40A:12A-64 *et seq*, provided that the Township determines that such financing is not detrimental to the Township. Redeveloper agrees that the Project Site properties must be assessed as of October 1 of the pretax year pursuant to *N.J.S.A.* 54:4-23. In light of the multi-year construction of the Project, any partial construction on the Project Site shall be assessed in a manner consistent with the statutory and case law for partial assessments. The Township and the Redeveloper agree that the Township shall not be obliged to use the current assessed value of the Project Site properties (as of the date of this Agreement) for the assessed value of the properties at the time they are initially assessed after acquisition by the Redeveloper.

SECTION 7.13. Tax-based Financing. The Township shall consider utilizing the financing mechanisms provided in (1) the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 *et seq*, and (2) the Revenue Allocation District Financing Act, N.J.S.A. 52:27D-459 *et seq*, and at the request of the Redeveloper will consider implementing any or all of such mechanisms provided that the Township determines that such financing is not materially detrimental to the Township in the context of the Project.

## ARTICLE VIII

### PROJECT OVERSIGHT

SECTION 8.1. Progress Meetings. Redeveloper agrees to attend and participate in bi-monthly progress meetings (or more frequent meetings upon request by the Township) with representatives of the Township to report on the status of the Project and to review the progress

under the Project Schedule (“Progress Meetings”). The meetings shall be held at the Township Hall. The Township shall prepare the agenda for the Progress Meeting in advance of the meeting.

SECTION 8.2. Progress Reports. The Redeveloper shall submit to the Township detailed written progress report (“Progress Reports”), which shall include a description of activities completed, the activities to be undertaken prior to the next progress report, the status of all Governmental Approvals, an explanation of each activity, if any, which is showing delay, a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and completion dates in the Project Schedule and an explanation of corrective action taken or proposed.

SECTION 8.3. Access to Project Site. The Township and its authorized representatives shall have the right to enter the Project Site during normal business hours to inspect the site and any and all work in progress for the purpose of furthering its interest in this Agreement provided that no such inspection shall materially, hinder any work being performed at the Project Site. In no event shall the Township’s inspection of the Project be deemed acceptance of the work or be deemed to waive any right the Township has under this Agreement.

SECTION 8.4. Construction Compliance Officer. The Township shall designate a part time Construction Compliance Officer (“CCO”) to provide services reasonably necessary for a Project of this scope to oversee the Project during implementation. The CCO may visit and inspect the Project with the Redeveloper to determine whether the Project is in compliance with the terms and conditions of this Agreement and the Design Criteria and Quality Standards set forth in the Redevelopment Plan. The CCO shall be employed by and solely responsible to the Township. The CCO shall: (a) attend all Progress Meetings; (b) have access to the Project Site at

all times and (c) have access to all of Redeveloper's Project field records to determine the extent of compliance with this Agreement.

## **ARTICLE IX**

### **REDEVELOPER COVENANTS**

SECTION 9.1 Redeveloper Covenants. The Redeveloper covenants and agrees that:

(a) The Redeveloper shall use the Project Site, and any part thereof in a manner that is consistent with the Redevelopment Plan and this Agreement. The Redeveloper will construct only those uses established in the Redevelopment Plan, as the Redevelopment Plan may be amended by the Township.

(b) The Redeveloper shall Commence Construction of each Phase of the Project Improvements on the dates set forth in the Project Schedule and shall implement and complete the Project in accordance with conditions and requirements of this Agreement, the Redevelopment Plan and the Act.

(c) Except as provided in Section 9.2 the Redeveloper shall not, without the prior written consent of the Township: (i) effect or permit any change, directly or indirectly, in the majority ownership or control of the Redeveloper, (ii) assign or attempt to assign this Agreement or any rights herein or in the Project Site, or (iii) make any total or partial sale, lease, transfer or conveyance of the whole or any part of its interest in the Project Site or the Project (collectively, a "Transfer"). With the express prior written consent of the Township, the Redeveloper, without violating the provisions of this Section, may effect a Transfer if the proposed transferee has the qualifications and financial responsibility necessary and adequate, as may be reasonably determined by the Township, to fulfill the obligations to be undertaken in this Agreement by the Redeveloper. A current audited financial statement, a Guarantor Agreement and any other documentation reasonably requested by the Township, must be promptly

submitted to the Township for consideration. The transferee, by written document acceptable in form and substance to the Township, for itself and its successors and assigns, and for the benefit of the Township, shall expressly assume all of the obligations of the Redeveloper under this Agreement applicable to the property interest conveyed with such sale, assignment or transfer and shall agree to be subject to all the conditions and restrictions to which the Redeveloper is subject hereunder, including the restrictions regarding the right to subsequent transfers. All relevant instruments and other legal documents proposed to effect any such transfer shall be submitted to the Township, and if the transferee is approved by the Township, such approval shall be indicated to the Redeveloper in writing. Any such approval shall not constitute a release of the Redeveloper or its obligations hereunder.

(d) Upon completion of each Phase of the Project, as evidenced by the Certificate of Completion, the conditions determined to exist at each Phase of the Project Site was determined to be an area in need of redevelopment shall be deemed to no longer exist. The land and improvements within each Phase of the Project Site shall no longer be subject to eminent domain for purposes of redevelopment as a result of those determinations.

(e) The Redeveloper shall design, implement, complete and operate the Project in compliance with this Agreement and all other applicable governmental laws, ordinances, Governmental Approvals, rules, regulations and requirements applicable thereto.

(f) Except in relation to the provision of Age Qualified residential units,, the Redeveloper shall not discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, physical handicap, age, marital status, sex, affectional or sexual orientation in the sale, lease, sublease, rental, transfer, use, occupancy, tenure or enjoyment of the Project Site, nor shall the Redeveloper itself, or any person claiming under or through the Redeveloper, establish or permit any such practice or



practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, lessees, subtenants, sublessees, or vendees on the Project Site.

(g) The Redeveloper shall not use the Project Site, or any part thereof, as collateral for an unrelated transaction.

SECTION 9.2 Permitted Transfers. The Redeveloper, without violating the provisions of Section 9.1, may effect the following Transfers, to which the Township hereby consents upon receipt of notice thereof, without the necessity of further action by the Township (“Permitted Transfers”):

(a) a mortgage or mortgages and other liens and encumbrances (including construction liens) for the purposes of financing costs associated with the acquisition, development, and construction of the Project;

(b) any lease, option agreement or contract of sale for all or any portion of the Project Improvements, provided the conveyance or occupancy contemplated thereby occurs following the issuance of a Certificate of Completion with respect to the relevant portion(s) of the Project Site;

(c) leases to tenants occupying space within the Project;

(d) utility and other development easements;

(e) sales of completed residential units to bona fide third party purchasers;

(f) sales of completed retail or commercial buildings to bona fide third party purchasers;

(g) any contract or agreement which effectuates any of the foregoing exceptions;

(h) With the prior Township approval, which shall not be unreasonably withheld, conditioned, or delayed, a transfer pursuant to Redeveloper’s succession plan or in the event of death or disability of a principal shareholder of the Redeveloper. In the

event that a transfer under this section is requested, the Redeveloper agrees to provide the Township's consultants with confidential access to the succession plan and related documents in order for the Township to determine that the transferee will have the financial resources and capability necessary to undertake, finance and complete the Project; provided, however, that the Township shall not be entitled to retain copies of any such confidential records.

(i) With the prior Township approval, which shall not be unreasonably withheld or delayed, any transfer or sale of portions of the Project provided such transfers are fully approved residential or commercial space to large, regional or national builders reasonably acceptable to the Township.

Such Permitted Transfer(s) shall in no way affect the obligation of the Guarantor under its Guaranty, which will remain in full force and effect and the transferee expressly assumes all of the obligations of this Agreement in writing as part of the transfer and provides a copy of such assumption to the Township.

SECTION 9.3 Effect and Duration of Covenants. The Redeveloper agrees to execute and permit the Township to record or cause to be recorded in the Office of the Salem County Clerk one or more Declarations of Covenants and Restrictions with respect to each Phase of the Project Site ("Declaration"), imposing on the Project Site said covenants, provided, however, that such covenants shall be binding on the Redeveloper itself, each successor in interest to the Project, the Project Site, or any part thereof. The Declaration shall state that the covenants shall run with the land and shall cease and terminate when a Certificate of Completion for such improvements has been issued.

## ARTICLE X

### PROJECT FINANCING COMMITMENT

#### 10.1 Redeveloper's Financial Commitment.

(a) Project Financing. The Township shall pay no costs or incur any debt in connection with the implementation of the Project, including, but not limited to the costs of property acquisition, environmental remediation of the Project Site, all Project improvements and any off-site improvements or amenities agreed to herein. During the Financial Due Diligence Period (defined herein), Redeveloper will provide the Township's financial consultant with confidential access to information regarding Redeveloper's and Guarantor's financial records (or the records of those entities which may be providing financing to Redeveloper or Guarantor) as may be reasonably necessary for the Township to determine to the Township's satisfaction that Redeveloper and its principals have the financial resources necessary to undertake and finance the Project to completion and to determine the amount of the Guarantor Agreement that will be required from the Redeveloper's Guarantor.

(b) Financial Due Diligence. For a period of sixty (60) days from the Contract Date (the "Financial Due Diligence Period"), the Redeveloper agrees to provide the Township's financial consultant with confidential access to such information regarding Redeveloper, in order for the Township to determine to the Township's satisfaction, that Redeveloper, has the financial resources necessary to undertake, finance and complete the Project; provided, however, that the Township shall not be entitled to retain copies of any such confidential records. If the Township is not satisfied with the information provided by Redeveloper, and/or determines in its discretion that Redeveloper or its Guarantor does not have the financial capability to implement the Project, the Township may terminate this Agreement

and the parties shall have no further rights or obligations under this Agreement. Redeveloper represents that it will maintain a net worth of Twenty-Five Million Dollars (\$25,000,000) or greater through the term of this Agreement. In accordance with the foregoing, Redeveloper agrees to submit, on an annual basis, an audited financial statement to the Township, which will demonstrate the net worth of Twenty-Five Million Dollars (\$25,000,000) or greater. Such audited financial statement will be submitted annually within sixty (60) days after the Redeveloper receives such statement from its accountants. .

#### SECTION 10.2 INTENTIONALLY DELETED

SECTION 10.3 Project Costs. All costs of implementing and completing the Project (“Project Costs”) shall be borne by the Redeveloper.

SECTION 10.4 Township Costs. The Redeveloper shall be fully responsible for reimbursing all of the Township’s reasonable costs associated with the Project, including costs incurred prior to the execution of this Agreement which have not otherwise been paid under the Interim Cost Agreement (“Township Costs”). The Township Costs shall include the following:

(a) The purchase price for the properties acquired by the Township whether acquired by condemnation or private negotiation; recording fees and real estate taxes to be paid during the process of acquisition, if any, including all taxes due after acquisition, both prior to and subsequent to conveyance of the properties to Redeveloper; Title insurance fees and premiums;

(b) Reasonable administrative and staff costs incurred by the Township in connection with the Project;

(c) Reasonable fees and costs of any professional consultant or other contractor or vendor retained by the Township in connection with the Project

(d) Expenses, if any, relating to environmental remediation and compliance pursuant to Section 11.6 of this Agreement;

(e) Expenses incurred in complying with the Relocation Laws, including the fees of any relocation agent or occupancy search firm retained by the Township;

(f) Liability and property insurance premiums and costs related to the properties while the Township has title, unless Redeveloper insures the property under its own policy, naming the Township as an insured party; and

(g) All costs associated with any litigation arising out of the Project. Redeveloper acknowledge and agrees that certain invoices for services performed for the Township prior to execution of this Agreement are still outstanding and will be paid by Redeveloper as provided in this Section. Any continuing costs in connection with the Redevelopment of the Project site shall be reimbursed to the Township from the Project Funds. The Redeveloper shall take all necessary steps and make all necessary payments to or on behalf of the Township in a timely fashion to meet this obligation of the Agreement.

SECTION 10.5 Payment of Township Costs. On a monthly basis the Township will submit a written invoice to Redeveloper for payment of Township Costs incurred by the Township. Within ten (10) days of receipt of the same, Redeveloper shall pay such Township Costs to the Township. Upon execution of this Agreement, Redeveloper shall pay to the Township deposit with the Township \$25,000.00 ("Project Funds") to be maintained in a separate account by the Township and to be drawn down by the Township to cover Township Costs. The Township shall provide the Redeveloper with invoice(s) setting forth the costs incurred by the Township which will be drawn down. Within fifteen (15) days of the receipt by Redeveloper of written notice from the Township that the amount of Project Funds has decreased to five thousand dollars (\$5,000.00), the Redeveloper shall replenish the Project Funds to the

amount of \$25,000.00. If the costs incurred by the Township exceed the amount of the Project Funds, the Redeveloper agrees to pay such costs upon fifteen (15) days written notice from the Township that such costs are due. In the event that Redeveloper requests the Township to exercise the power of condemnation pursuant to Section 7.3, Redeveloper shall increase the amount deposited with the Township to \$50,000.00 and shall replenish the Project Funds to the amount of \$50,000.00 upon written notice that the amount of Project Funds have decreased to \$25,000.00. Redeveloper shall increase the Project Funds to this amount prior to any request to the Township to exercise the power of condemnation.

SECTION 10.6 Governmental Approval Fees. The Redeveloper shall pay all fees for permits required by the Township (in accordance with standard fees provided in the Township's Municipal Code) and any other governmental agency for the construction and development of the Project. The Redeveloper shall pay all other permit fees which include any permit fees payable by the Township or the Redeveloper to all required governmental agencies other than the Township, or for which the Township is required to reimburse other governmental agencies or for which the Township pays to the County or is required to pay other third party contractors retained by or on behalf of the Township to perform services which the Township would otherwise be required to perform itself.

## ARTICLE XI

### RESPONSIBILITIES OF REDEVELOPER

SECTION 11.1. Compliance with Laws. The Redeveloper shall carry out its obligations hereunder in conformity with all applicable federal, state, county and local laws and any and all laws, rules, regulations, permits and codes of all governmental and quasi-governmental, local, county, state and federal authorities and any other requirements made applicable solely by reason of the source or manner of financing all or a portion of the Project.

SECTION 11.2. Compliance with Redevelopment Plan. The Redeveloper shall take all necessary steps so that the development of the Project Site and the construction of the Project Improvements shall be in accordance with the provisions of this Agreement and Redevelopment Plan.

SECTION 11.3. Compliance with Agreement. Redeveloper shall use reasonable efforts to ensure that all consultants, professionals, employees, agents, contractors engaged by Redeveloper or any of Redeveloper's subcontractors shall have the skill and judgment necessary to implement the Project in compliance with the terms and conditions of this Agreement.

SECTION 11.4. Execution of Documents. The Redeveloper shall, in order to effectuate the purposes of this Agreement, make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things which may be requisite or proper for the acquisition, construction and development of the Project in accordance with all necessary Governmental Approvals.

SECTION 11.5. Neighborhood Impacts. The Redeveloper acknowledges that the construction of the Project will have certain impacts, including traffic, on the adjacent property owners. Therefore, the Redeveloper shall take reasonable steps to minimize the negative effects that construction of the Project may produce.

SECTION 11.6. Environmental Obligations. Redeveloper agrees as to those portions of the Project Site acquired by Redeveloper:

(a) Redeveloper agrees that it shall be responsible for the investigation and remediation of all environmental conditions and natural resources of the properties at or effecting the Project Site and to obtain No Further Action Letter(s) for the Project Site.

(b) With respect to natural resource damages or restoration that may have resulted from any past, present or future activities or conditions at the Project Site, Redeveloper shall be responsible for all investigation and remediation regarding the same required by the State. Redeveloper shall make a good faith effort to settle all potential claims, if any, against the Township or with respect to Township Parcels by the State for Natural Resource Damages (“NRD”) and NRD restoration and execute an agreement with the State for the same.

(c) Redeveloper shall defend, protect, indemnify and hold harmless the Township Indemnified Parties from any claims, liability, injury, damages (including, without limiting the generality of the foregoing, claims for natural resource damages (“NRD”) and NRD restoration), costs, claims, actions and expenses (including, without limiting the generality of the foregoing, the cost of any required investigation and remediation of any environmental conditions, and the cost of attorneys’ fees) which may be sustained as the result of any environmental conditions on, in, under or migrating to or from the Project Site to the extent any such liability attaches to the Township Indemnified Parties as a result of this Agreement, prior ownership, Redeveloper access to the Project Site during the Project Due Diligence Period set forth in Section 2, condemnation of the contaminated property, contracts of purchase incident to this Agreement, or activities performed by Redeveloper or its contractors pursuant to this Agreement, including without limitation claims against the Township Indemnified Parties by any third party.

(c) The Township Indemnified Parties shall give prompt notice to Redeveloper as



to any situation in which the Township Indemnified Parties are entitled to receive and desire defense and/or indemnification. Failure to give prompt notice to Redeveloper shall not relieve Redeveloper of any liability to indemnify Township Indemnified Parties, unless such failure to give prompt notice materially impairs Redeveloper's ability to provide defense. Upon receipt of such notice, Redeveloper shall resist and defend any action or proceeding on behalf of the Township Indemnified Parties, including the employment of counsel reasonably acceptable to the Township Indemnified Parties, payment of all expenses, and the right to negotiate and consent to settlement. All of the Township Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in their own defense. Redeveloper shall not be liable for any settlement of any such action effected without its consent, but if any action is settled with the consent of Redeveloper or if there is a final judgment against Redeveloper or the Township Indemnified Parties in any such action, Redeveloper shall indemnify and hold harmless the appropriate the Township Indemnified Parties from and against any loss or liability by reason of such settlement or judgment.

SECTION 11.7 Traffic. The Redeveloper and the Township agree that the direction, flow and amount of traffic in and around the Project Site during the time of construction is an issue to be addressed during the construction of the Project. The Redeveloper will exert its best efforts and the Township will cooperate in an effort to minimize the traffic effects of the Project upon the surrounding neighborhoods during construction of the Project.

SECTION 11.8 Rodent, Insect and Animal Control. The Redeveloper will take all reasonable steps necessary to minimize and control the migration of rodents, insects, or other animals from the Project Site during the construction of the Project. The Redeveloper will undertake to provide controls in accordance with all applicable laws and other construction standards such that the issue of rodent, insect and animal control is reasonably addressed prior to

the Commencement of Construction. Redeveloper agrees to coordinate this effort with the Township's Department of Health.

SECTION 11.9 Illumination, Noise, Pollution or Damage. The Redeveloper is mindful of the size of the Project and the potential effects that the construction of such an undertaking may have on the surrounding communities during construction. Therefore, the Redeveloper agrees that it will take all steps reasonably necessary and the Township will cooperate in an effort to minimize the passage of excessive or unwarranted illumination, noise or pollution into the surrounding communities during construction. Redeveloper shall take measures necessary to ensure that the improvements on the perimeter of the Project Site shall not be damaged or disturbed during construction.

SECTION 11.10 First Source Employment. The Redeveloper shall use reasonable efforts to employ and shall provide in its contracts with contractors and subcontractors that they shall use reasonable efforts to employ qualified residents of the Township in the construction of the Project. The Redeveloper covenants to enforce its contracts with its contractors and subcontractors if such parties are not in compliance with this Section.

SECTION 11.11 Prevailing Wages. The Redeveloper shall pay or cause to be paid to all workers employed in connection with the construction and completion of the "public work" (as such terms is defined in *N.J.S.A. 34:11-56.26*) portion of the Project (if any), not less than the prevailing rates of wages, as provided in the statutes applicable to the Township's public work contracts, including without limitation *N.J.S.A. 34:11-56.25 et seq.* and valid regulations promulgated there-under, all to the extent legally required.

SECTION 11.12 Maintenance and Landscaping. The Redeveloper shall keep the Project Site free from unreasonable accumulation of debris or waste materials during construction of the

Project and shall maintain in good condition any landscaping and amenities required under the final site plan.

SECTION 11.13 Occupancy Permit. The Redeveloper shall obtain all required occupancy permits and authorizations from appropriate authorities, if any are required, authorizing the occupancy and uses of the Project for the purposes contemplated hereby.

SECTION 11.14 Speculative Development. The Redeveloper represents its undertakings pursuant to this Agreement are for the purpose of redevelopment of the Project Site and not for speculation in land holding.

SECTION 11.15 Redeveloper and Township agree and acknowledge the scope of the Project will have an impact on the recreational and other needs of the Township which cannot be fully and completely determined prior to entry of this Agreement. In order to address such impacts, Redeveloper agrees to pay the Township the sum of One Thousand Five Hundred Dollars (\$1,500.00) per residential unit prior to the issuance of each construction permit required as a result of the construction in the Redevelopment Area. The Township shall have the complete discretion as to the manner in which such funds shall be expended. Township agrees that any ordinance, rule or regulation enacted by the Township imposing a recreation fee or other similar fee related to development in the Township while this Agreement is in effect shall exclude all construction in the Redevelopment Area from such recreation or other such fee.

Redeveloper and the Township agree and acknowledge that the scope of the Project will create the need for an additional Emergency Services / Fire Department facility in order to adequately respond to the emergency, fire and other needs of the residents within the Redevelopment Area. In order to meet this expected need, Redeveloper agrees that prior to construction of the Project Improvements in Phase IV as set forth in Exhibit B, Redeveloper shall convey a parcel of

property of at least one and one-half acres within the Redevelopment Area to the Township for use by the Township for the construction of a Emergency Services / Fire Department facility. The conveyance of such property to the Township shall be for the sum of One Dollar (\$1.00). The location of the parcel to be conveyed to the Township shall be determined by the reasonable agreement between the Township and Redeveloper based upon the ability to promptly and efficiently respond to the expected emergency needs of the residents in the Redevelopment Area.

## **ARTICLE XII**

### **INDEMNIFICATION**

#### **SECTION 12.1.        Indemnification.**

(a) In addition to the environmental indemnification provided under Section 11.6, the Redeveloper covenants and agrees, at its sole expense, to pay and to indemnify, protect, defend and hold the Township Indemnified Parties harmless from and against all liability, losses, damages, demands, costs, claims, actions, or expenses (including attorneys' fees and court costs) of every kind, character and nature ("Claims") arising out of, resulting from or in any way connected with the acquisition, condemnation, condition, use, possession, conduct, management, planning, design, construction, installation, financing, marketing, leasing or sale of the Project Site or the Project, including but not limited to, the death of any person or any accident, injury, loss, and damage whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Project Site. Notwithstanding the foregoing, no Township Indemnified Party shall be entitled to any such indemnification or defense relating to any Claims based, in whole or in part, upon the intentional misconduct of any such Township Indemnified Party, or any actions or inactions of any such Township Indemnified Party that constitute a breach of this Agreement by the Township.

(b) In any situation in which the Township Indemnified Parties are entitled to receive and desire defense and/or indemnification by the Redeveloper, the Township Indemnified Parties shall give prompt notice of such situation to the Redeveloper. Failure to give prompt notice to the Redeveloper shall not relieve the Redeveloper of any liability to indemnify the Township Indemnified Parties, unless such failure to give prompt notice materially impairs the Redeveloper's ability to defend. Upon receipt of such notice, the Redeveloper shall resist and defend any action or proceeding on behalf of the Township Indemnified Parties, including the employment of counsel reasonably acceptable to the Township Indemnified Parties and the payment of all expenses. All of the Township Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the expense of the indemnified party unless the employment of such counsel is specifically authorized by the Redeveloper in the sole discretion of the Redeveloper which authorization shall not be unreasonably withheld or delayed.. The Redeveloper shall not be liable for (1) any settlement of any such action effected without its consent, (2) any final judgment entered in excess of any settlement amount proposed by the Redeveloper and identified in writing as acceptable by the claimant in any such matter. Otherwise, the Redeveloper agrees to indemnify and hold harmless the Township Indemnified Parties from and against any loss or liability by reason of such settlement or judgment for which the Township Indemnified Parties are entitled to indemnification hereunder.

SECTION 12.2. Survival of Indemnity. This indemnity shall survive the termination of this Agreement for a period of the length of the applicable statute of limitations for any claim covered by the indemnity and shall run with the land. Such indemnity shall be binding on the Redeveloper itself and each successor in interest to the Redeveloper; provided, however, that

such indemnity shall not be binding on any purchaser or lessee of any completed portion of the Project which is the subject of a Certificate of Completion.

### **ARTICLE XIII**

**SECTION 13.1** Additional Termination Rights of Township. Notwithstanding anything contained in this agreement to the contrary, this Agreement may be terminated by the Township upon notice by the Township to the Redeveloper of its decision to so terminate, notwithstanding the occurrence of an Uncontrollable Circumstance or the absence or existence of an Event of Default, if any of the following circumstances exists:

(a) Notwithstanding the issuance of all required Governmental Approvals, if Redeveloper fails to complete construction required in a Phase (as set forth in Exhibit "B") within seven (7) years after the necessary permits are obtained for that Phase.

In the event that this Agreement is terminated by the Township pursuant to this Article XIII, the Redeveloper's designation as the redeveloper of the Project Site shall in that event automatically terminate and the Township may pursue any remedies under this Agreement. Nothing in this Article shall prevent the Township from declaring that an Event of Default by Redeveloper has occurred or from pursuing any of its other remedies hereunder.

### **ARTICLE XIV**

#### **EVENTS OF DEFAULT AND REMEDIES**

**SECTION 14.1** Events of Default. Any one or more of the following shall constitute an Event of Default hereunder, unless such event results from the occurrence of an Uncontrollable Circumstance:

(a) Failure of the Redeveloper to observe and perform any covenant, condition or agreement in this Agreement (other than failure to timely pay Township Costs) and continuance of such failure for a period of sixty (60) days, after receipt by the Redeveloper of written notice from the Township specifying the nature of such failure and requesting that such failure be remedied ("Default Notice"); provided, however, if the breach of any such covenant, condition or agreement is one which cannot be completely remedied within the sixty (60) days after such written notice has been given, it shall not be an Event of Default as long as the defaulting party is proceeding with due diligence to remedy the same as soon as practicable but in no event later than one hundred twenty (120) days after such written notice.

(b) Failure of the Redeveloper to pay the Township Costs due ten (10) days after receipt by Redeveloper of the Default Notice.

(c) (i) The Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of the Redeveloper; (iii) the Redeveloper (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) the Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) the Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against the Redeveloper and shall not have been dismissed for a period of sixty (60) consecutive days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of the Redeveloper under the Bankruptcy Code; or (viii) an order, judgment or decree shall have been entered, without the application, approval or consent of the Redeveloper by any court of competent jurisdiction appointing a receiver, trustee,

custodian or liquidator of the Redeveloper or a substantial part of its assets and such order, judgment or decree shall have continued un-stayed and in effect for any period of sixty (60) consecutive days.

(d) The Redeveloper shall fail to satisfy its obligations with respect to the timely construction of the Project in accordance with this Agreement, final site plan approval, or the Project Schedule, following the issuance of the Governmental Approvals required to do so, or shall abandon or substantially suspend construction work, and any such failure, abandonment or suspension shall not be cured, ended, or remedied within ninety (90) days after receipt of the Default Notice from the Township, provided, however, if the default or violation is one which cannot be completely remedied within ninety (90) days after receipt of the Default Notice, it shall not be an Event of Default as long as the defaulting party is proceeding with due diligence to remedy the same and the default is fully remedied not later than one hundred forty-five (145) days after mailing of the Default Notice.

(e) The Redeveloper shall otherwise default in or violate its obligations with respect to the Project Schedule and any such default or violation shall not be cured, ended, or remedied within sixty (60) days after receipt of the Default Notice from the Township, provided, however, if the default or violation is one which cannot be completely remedied within the sixty (60) days after receipt of the Default Notice it shall not be an Event of Default as long as the Redeveloper is proceeding with due diligence to remedy the same and the default is fully remedied not later than one hundred twenty (120) days after mailing of the Default Notice.

(f) The Redeveloper or any successor redeveloper shall fail to pay any real estate taxes or assessments on any real property or any part thereof owned by it in the Township when due, or shall place thereon any encumbrance or lien unauthorized by this Agreement, or shall suffer any levy or attachment to be made, or any materialmen's or mechanics' lien, or any



other unauthorized encumbrance or lien to attach and within thirty (30) days after written demand by Township to do so, such real estate taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the Township made for such payment, removal, or discharge, including but not limited to the provision of a surety bond satisfactory to the Township.

(g) The Redeveloper shall implement a Transfer in violation of this Agreement.

(h) Notwithstanding the foregoing, Redeveloper has no obligation to commit to additional Project Phases if Redeveloper demonstrates to the reasonable satisfaction of the Township a material change in the market conditions, interests rates or other generally accepted economic factors which existed at the time of the Fiscal Impact Study that make proceeding with a particular Phase of the Project not feasible. In that event, this Agreement may be terminated by the Redeveloper without penalty or costs of any kind, except for those obligations which expressly survive termination of this Agreement.

SECTION 14.2 Remedies. Upon Event Of Default Prior to Redeveloper's Acquisition of Project Site.

(a) Termination or Institution of Lawsuit. In the event of an Event of Default by any party hereto prior to or during the initial acquisition of all or any portion of the Project Site by Redeveloper, the non-defaulting party may terminate this Agreement and/or may institute whatever action, at law or in equity, it may deem desirable, including the seeking of damages

(b) Additional Remedies in the Event of Termination of Agreement. In the event that this Agreement is terminated by the Township, the Redeveloper's designation as the redeveloper of the Project Site shall terminate, and the Township shall have the right to withdraw, to the extent possible, from purchase agreements and condemnation proceedings, if

any, theretofore undertaken. If the Township is unable, for any reason, to withdraw from any purchase agreements and/ or condemnation proceedings, then Redeveloper shall indemnify and hold the Township harmless from and against any costs, fees, fines, penalties and/ or damages incurred by or imposed upon the Township in connection with same. The Redeveloper shall also pay over to the Township all of the costs and/or damages (including reasonable counsel fees) incurred by the Township on account of the default of the Redeveloper and/or arising out of or resulting from the withdrawal of the Township from any purchase agreement and/or condemnation proceeding. The Township shall have the right to apply to the aforementioned costs or damages incurred by the Township as aforesaid, any funds of the Redeveloper in the hands of the Township at the time of such default and termination or returned to the Township as the result of the Township's termination or withdrawal from any purchase agreement and/or condemnation proceeding.

SECTION 14.3 Remedies Upon Events of Default After Redeveloper's Acquisition of Project Site

(a) Termination. In the event of an Event of Default by any party, after the acquisition of the Project Site by Redeveloper, the non-defaulting party may terminate this Agreement, and/or may institute whatever action, at law or in equity, it may deem desirable, including the seeking of damages.

(b) Additional Remedies of the Township in the Event of Termination of the Agreement. In the event that this Agreement is terminated by the Township: (i) The Redeveloper's designation as the redeveloper of the Project Site shall in that event automatically terminate, Redeveloper shall immediately pay to the Township all outstanding Township Costs, and the Township shall have the right to withdraw, to the extent possible, from purchase

agreements and condemnation proceedings, if any, theretofore undertaken. If the Township is unable, for any reason, to withdraw from any purchase agreements and/or condemnation proceedings, then Redeveloper shall indemnify and hold the Township harmless from and against any costs, fess, fines, penalties and/or damages incurred by or imposed upon the Township in connection with the same. (ii) The Redeveloper shall also pay over to the Township all of the costs and/or damages (including reasonable counsel fees) incurred by the Township on account of the default of the Redeveloper and/or arising out of or resulting from the withdrawal of the Township from any purchase agreement and/or condemnation proceeding. The Township shall have the right to apply to the aforementioned costs or damages incurred by the Township as aforesaid, any funds of the Redeveloper in the hands of the Township at the time of such default and termination or returned to the Township as the result of the Township's termination or withdrawal from any purchase agreement and/or condemnation proceeding, (iii) With respect to those properties within the Project Site that were acquired by Redeveloper, the Township shall have the option to purchase from the Redeveloper either before or after a new redeveloper has been designated for the Project Site any or all properties acquired by Redeveloper at the actual price paid by Redeveloper to property owner or the Township or the fair market value, whichever is less, as the case may be, plus any New Jersey Realty Transfer Fee paid or payable by the Redeveloper in connection therewith, but exclusive of any other costs, (iv) Upon the occurrence of an Event of Default by Redeveloper, the Township shall, pursuant to its responsibilities under state law, use reasonable efforts to designate a replacement developer for the Project Site (subject to such permitted mortgage liens as may exist against the Project and the rights of a Holder as set forth herein). Such replacement developer shall be designated as soon and in such manner as the Township shall find feasible and consistent with the objectives of State law and of the Redevelopment Plan, and (v) The Township may convey such portions of

the Project Site as the Township shall have acquired to a qualified and responsible party or parties as determined by the Township, who will assume the obligation of completing the Project or such other improvements in its stead as shall be satisfactory to the Township and in accordance with the uses specified in this Agreement for the Project Site. Redeveloper shall deliver to such replacement developer assignments of all other rights and agreements pertaining to the Project. Nothing herein shall prevent the Township or other governmental entity from performing the functions of a replacement developer.

SECTION 14.4 No Waiver of Rights and Remedies by Delay. Any delay by an aggrieved party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights and shall not deprive the aggrieved party of such rights or limit the aggrieved party's rights in any way. It is the intent of this provision that the parties' rights under this Agreement shall not be unduly abridged by concepts of waiver, laches, or otherwise, so that the parties may enforce their rights while it is still possible to resolve the problems created by the default involved. Nor shall any waiver in fact made by the aggrieved party with respect to any specific default by the defaulting party under this Agreement be considered or treated as a waiver of the rights of the aggrieved party with respect to any other defaults by the defaulting party under this Agreement or with respect to the particular default except to the extent specifically waived in writing.

SECTION 14.5 Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or by the terms of this Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, or manner or time

thereof, or any obligation of the other party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

SECTION 14.6 Failure or Delay. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies..

SECTION 14.7 Certificate of No Default. The Redeveloper shall deliver to the Township on a quarterly basis after execution of this Agreement, a certificate signed by a duly authorized officer of the Redeveloper to the effect that the Redeveloper is not aware of any condition, event or act which constitutes a violation of this Agreement or which would constitute an Event of Default hereunder and no condition, event or act exists which, with notice or lapse of time, or both, would constitute such a violation, or Event of Default, or if any such condition, event or act exists, specifying the same ("Certificate of No Default").

SECTION 14.8 Survival of Termination. The provisions of this Article shall survive the termination of this Agreement.

## **ARTICLE XV**

### **MISCELLANEOUS**

SECTION 15.1. Notices. Formal notices and demands between the Township and the Redeveloper and from the Redeveloper to the Township (as required herein) shall be deemed

sufficiently given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed delivered upon receipt. Notices may also be sent by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. In this case such notice is deemed effective upon delivery. Such formal notices and demands may be sent in the same manner to such other addresses as either party may from time to time designate by written notice. Minor communication between the parties that is other than formal notice of actions by the parties may be sent by regular mail or facsimile.

Copies of all notices, demands and communications shall be sent as follows:

If to the Redeveloper:

Heritage Building Group, Inc.  
2500 York Road  
Jamison, Pa 18929  
Attn: Charles C. Sturges, III, CEO

And:

Heritage Building Group, Inc.  
2500 York Road  
Jamison, Pa 18929  
Attn: Howard M. Brown, Esquire General Counsel

cc: Jack Plackter, Esquire  
Fox Rothschild  
Midtown Building  
Suite 400  
1301 Atlantic Avenue  
Atlantic City, NJ 08401-7212

If to Carneys Point:

Township of Carneys Point  
**Attn: Janina Patrus**  
303 Harding Highway  
Carneys Point, New Jersey 08069

cc: **John Jordan, Esq.**  
111-113 North Broadway  
Pennsville, New Jersey 08070

**Leah Healey, Esq.**  
Maraziti, Falcon & Healey  
150 JFK Parkway  
Short Hills, New Jersey 07078

SECTION 15.2. Non-Liability of Officials and Employees of Township . No member, official or employee of the Township shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Township, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Agreement.

SECTION 15.3. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto, and their heirs, executors, and administrators; provided however, should the Township create a redevelopment agency and delegate its redevelopment powers to the same, Redeveloper consents to the assignment of this Agreement to such agency.

SECTION 15.4. Exhibits. All Exhibits attached hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

SECTION 15.5. Titles of Articles and Sections. The titles of the several Articles and Sections of this Agreement are inserted for the convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

SECTION 15.6. Severability. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each other term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law, except to the extent that any such determination shall have the effect of denying any party any material rights or benefits of its bargain evidenced by this Agreement.

SECTION 15.7. Modification of Agreement. No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by the party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.

SECTION 15.8. Execution of Counterpart. This Agreement may be executed in one or more counterparts and when each party has executed and delivered at least one counterpart, this Agreement shall become binding on the parties and such counterparts shall constitute one and the same instrument.

SECTION 15.9. Waivers and Amendments in Writing. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Township and the Redeveloper and all amendments hereto must be in writing and signed by the appropriate authorities of the Township and the Redeveloper. The waiver by either party of a default or of a breach of any provision of this Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach.

SECTION 15.10. Conflict of Interest. No member, official or employee of the Township shall have any direct or indirect interest in this Redevelopment Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.



SECTION 15.11. Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of New Jersey.

## ARTICLE XVI

### **MORTGAGE FINANCING; RIGHTS OF THE TOWNSHIP AND MORTGAGEE**

SECTION 16.1 Mortgage Financing. Neither Redeveloper nor any successor in interest to the Project Site, or any part thereof, shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the same, whether by express agreement or operation of law, or suffer any encumbrance or lien (other than liens for governmental impositions) to be made or attach to the Project Site, except as may be required for the purpose of obtaining funds for the acquisition of the Project Site and construction of the Project, provided however, that upon the issuance of a Certificate of Completion, such prohibition shall no longer apply. Redeveloper, or its successor in interest, shall notify the Township in advance of any such financing secured by a mortgage or other lien instrument which it proposes to enter into with respect to the Project or any part thereof (the mortgagee thereunder or its affiliate, a "Holder") and, in any event, Redeveloper shall promptly notify the Township of any encumbrance or lien (other than liens for governmental impositions) that has been created on or attached to any portion of the Project Site, whether by voluntary act of Redeveloper or otherwise, upon obtaining knowledge or notice of same.

SECTION 16.2 Notice of Default to Redeveloper and Right to Cure. Whenever the Township shall deliver any notice or demand to Redeveloper with respect to any breach or default by Redeveloper under this Agreement, the Township shall at the same time deliver to each Holder a copy of such notice or demand; provided that Redeveloper has delivered to the Township a written notice of the name and address of such Holder. Each such Holder shall

(insofar as the rights of the Township are concerned) have the right at its option within sixty (60) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default which is subject to being cured and to add the cost thereof to the debt and the lien which it holds. If such default shall be a default which can only be remedied or cured by such Holder upon obtaining possession, such Holder shall seek to obtain possession of the Project Site (or portion to which its mortgage relates) with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within sixty (60) calendar days after obtaining possession. In the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced, within such sixty (60) days period, such Holder shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity.

SECTION 16.3 Guarantee of Construction or Completion. A Holder shall in no manner be obligated by the provisions of this Agreement to construct or complete the Project (or portion to which its mortgage relates), or to guarantee such construction or completion; nor shall any covenant or any other provisions be construed so to obligate a Holder. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to permit or authorize such Holder to undertake or continue the construction or completion of the Project, or portion to which its mortgage relates, without the Holder first having expressly assumed Redeveloper's obligations to the Township with respect to the Project (the portion of such obligations with respect to which it has extended financing) by written agreement reasonably satisfactory to the Township.

SECTION 16.4 Foreclosure. If a Holder forecloses its mortgage secured by the Project Site (or portion to which its mortgage relates), or takes title to the Project Site (or portion to which its mortgage relates) by deed-in-lieu of foreclosure or similar transaction (collectively a

“Foreclosure”), the Holder shall have the option to either (i) sell the Project Site (or portion to which its mortgage relates), as applicable, to a responsible Person reasonably acceptable to the Township, which Person shall assume the obligations of Redeveloper under this Agreement in accordance with law, and/or (ii) itself assume the obligations of Redeveloper under this Agreement in accordance with law. In the event of a Foreclosure and provided the Holder or the purchaser is in compliance with this Agreement, the Township shall not seek to enforce against the Holder or purchaser of such parcel any of the remedies available to the Township pursuant to the terms of this Agreement available in connection with the events preceding the Foreclosure. The Holder, or the Person assuming the obligations of Redeveloper as to the parcel affected by such Foreclosure or sale, in that event must agree to complete the Project in the manner provided in this Agreement, but subject to reasonable extensions of the scheduled Completion Dates, and shall submit evidence reasonably satisfactory to the Township that it has the qualifications and financial responsibility necessary to perform such obligations. Any such Holder or Person assuming such obligations of Redeveloper, properly completing Project Improvements shall be entitled to Certificates of Completion in accordance herewith. Nothing in this Agreement shall be construed or deemed to permit or to authorize any Holder, or such other Person assuming such obligations of Redeveloper, to devote the Project Site, or any part thereof, to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

SECTION 16.5 Township’s Option to Pay Mortgage Debt or Purchase Land. Any mortgage entered into by Redeveloper shall specifically reference the following requirements:

(a) In any case where, subsequent to an Event of Default by Redeveloper under this Agreement and/or Foreclosure, the Holder:

(i) has, but does not exercise, the option to construct or complete the Project

or part thereof covered by its mortgage or to which it has obtained title, and such failure continues for a period of sixty (60) calendar days after the Holder has been notified or informed of the Event of Default; or

- (ii) undertakes construction or completion of the Project but does not complete such work within a reasonable period, and such default shall not have been cured within sixty (60) calendar days after written demand by the Township so to do ((i) and (ii) each a “Holder Failure”);

the Township shall have the option of paying to the Holder the amount of the mortgage debt and obtaining an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Project Site (or part thereof) has vested in such Holder by way of foreclosure or action in lieu thereof, the Township shall be entitled, at its option, to a conveyance to it of the Project Site or part thereof (as the case may be) upon payment to such Holder of an amount equal to the sum of: (a) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings); (b) all expenses with respect to the foreclosure, including reasonable attorney’s fees and expenses; (c) the net expense, if any (exclusive of general overhead), incurred by such Holder in and as a direct result of the subsequent management of the mortgaged property; (d) the costs incurred by such Holder in making any Project Improvements; and (e) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence. Every mortgage instrument made prior to completion of the Project

(b) The foregoing provisions of Section 16.5(a) shall not apply in the event of a Holder Failure if and to the extent the Township chooses to acquire the Project Site or portion thereof by condemnation, which right the Township hereby reserves.

(c) The Township shall reasonably cooperate with a Holder to modify the provisions of this Article if reasonably requested by Holder, provided, however, that such modifications shall not substantially reduce the rights of the Township hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed,  
all as of the date first above written.

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TOWNSHIP OF CARNEYS POINT

By: \_\_\_\_\_, Mayor

STATE OF NEW JERSEY    )  
  ) ss:  
COUNTY OF SALEM )

I CERTIFY that on November \_\_\_, 2006, \_\_\_\_\_ personally came before me, and  
this person acknowledged under oath to my satisfaction that:

- (a)    this person is the Managing Partner of \_\_\_\_\_, the entity named in this  
          document;
- (b)    this document was signed and delivered by \_\_\_\_\_, as managing member of  
          and on behalf of \_\_\_\_\_ as its voluntary act and deed duly authorized by its  
          members; and
- (c)    this person signed this proof to attest to the truth of the facts.

\_\_\_\_\_

Signed and sworn to before me  
on \_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY )  
 ) ss:  
COUNTY OF SALEM )

I CERTIFY that on \_\_\_\_\_, 2006, \_\_\_\_\_ personally came before me, and this person acknowledged under oath to my satisfaction, that: \_\_\_\_\_

(a) this person is the \_\_\_\_\_ of the Township of Carneys Point, named in this document;

(b) this person is the attesting witness to the signing of this document by the proper Agency official who is \_\_\_\_\_ of the Township of Carneys Point; and

(c) this document was signed and delivered by the Township as its voluntary act duly authorized by a proper resolution of the Township; and

(d) this person signed this proof to attest to the truth of these facts.

, Township Clerk

Signed and sworn to before me  
on \_\_\_\_\_, 2005.

Notary Public

## EXHIBIT A

### PROJECT SITE AND ACQUISITION PARCELS

The Project Site shall consist of the following Blocks and Lots:

BLOCK	LOT
185.00	1.00
185.00	1.03
185.00	3.00
185.00	4.00
193.00	1.00
193.00	2.00
193.00	3.00
193.00	4.00
193.00	4.01
193.00	5.00
193.00	6.00
193.00	7.00
193.00	8.01
193.00	9.00
193.00	10.00
193.00	11.00
193.00	12.00
193.00	12.01
193.00	12.02
193.00	12.03
193.00	13.00
193.00	13.01
194.00	1.00
194.00	1.01
194.00	2.00
244.00	1.00
244.00	1.01
244.00	15.02
246.00	1.01
246.00	1.02
246.00	1.04
246.00	3.00
246.00	4.00
246.00	5.00
246.00	6.00
246.00	7.00
246.00	8.00
246.00	8.01
246.00	9.00



246.00	9.01
246.00	10.00
246.00	10.01
246.00	11.00
246.00	12.00
246.00	13.00
246.00	14.00
246.00	15.00
246.00	16.00
246.00	16.01
246.00	17.00
246.00	18.00
247.00	1.00
247.00	2.00
247.00	3.00
247.00	4.00
247.00	4.01
247.00	5.00
247.00	6.00
247.00	7.00
247.00	8.00
247.00	9.00
247.00	10.00
247.00	12.00
247.00	12.01
248.00	1.00
248.00	1.01
248.00	2.00
248.00	3.00
248.00	4.00
248.00	5.00
248.00	6.00
248.00	6.01
248.00	7.00
248.00	8.00
248.00	8.01



## **EXHIBIT B**

### **PROJECT IMPROVEMENTS & PHASING<sup>1</sup>**

#### **EXHIBIT B**

#### **PROJECT IMPROVEMENTS AND PHASING**

The Project shall consist of not more than 1200 residential units consisting of at least 500 Age Qualified units with the remaining 700 units divided among the 4 Tiers set forth below. The Project shall further include 350,000 square feet of commercial space divided among retail commercial, office commercial and flex industrial uses. In the event the Redeveloper is unable to obtain approvals to build 1200 residential units, the number of required Age Qualified units will be reduced so that the number of required Age Qualified units equals forty-two percent (42%) of the total residential units. Moreover the required number of Age Qualified units in each Phase set forth below shall be proportionally reduced as well. In addition the Project will include open space recreational uses including nature and jogging trails, a clubhouse to be constructed as part of the Age-Qualified Community, restoration of Clemente's Lake., all of which (other than the clubhouse) shall be deed-restricted and dedicated for public use and available to the public on a schedule to be agreed upon by the Township and Redeveloper.

The types of construction to be completed as part of the Project are as follows:

#### **A. Residential**

1. Age Qualified
  - 500 units
  - 2 and 3 bedroom homes
  - Base Sales Price \$275,000 - \$350,000 \*
  - Minimum 6,000 SF lots
  - 1,800 – 2,200 sq. ft.
2. Tier I (T-1) homes (entry level)
  - 4 bedroom homes
  - Base Sales Price \$275,000 - \$300,000 \*
  - Minimum 7,200 SF lots
  - 1,800 – 2,400 sq. ft. (exclusive of garage)
3. Tier II (T-2) homes (move-up)
  - 4 bedroom homes
  - Base Sales Price \$325,000 - \$375,000 \*

---

<sup>1</sup> If the Redeveloper determines that it will not complete construction of a Phase within the required time period as set forth herein, it shall notify the Township of such determination and provide the Township with a detailed explanation for such inability. Upon receipt of such notice, the Township shall determine in its reasonable exercise of discretion whether to extend the deadline for construction. The ability to request such an extension shall not be affected by the Redeveloper's ability to exercise its right to an extension by the payment of \$50,000 as set forth in the individual Phases below.

- Minimum 10,000 SF lots
  - 2,900 – 3,400 sq. ft. (exclusive of garage)
4. Tier III (T-3) homes (luxury)
    - 4 bedroom homes
    - Base Sales Price \$425,000 - \$500,000 \*
    - Minimum 10,000 SF lots
    - 3,500 – 4,000 sq. ft. (exclusive of garage)
  5. Tier IV Townhomes (TH)
    - 3 bedroom homes
    - Base Sales Price: \$250,000 - \$275,000\*
    - Minimum 2,400 SF lots
    - 2,100 – 3,100 sq. ft.

*\* Price ranges are based upon economic conditions as of January 1, 2006 and are to be modified over time based upon changes (up or down) in the regional Consumer Price Index.*

#### B. Retail / Commercial

228,000 square feet of retail commercial uses, including a supermarket, strip-mall retail, restaurants, bank and “big box” retail.

#### C. Office / Commercial

42,000 square feet of office commercial uses.

#### D. Flex Industrial

80,000 square feet of flex industrial uses.

#### E. Open Space / Recreational

The Project shall include a minimum of 45 contiguous acres of preserved and deed-restricted passive and active recreational space to be developed or improved by Redeveloper in accordance with the development plans to be approved by the Township. A minimum of 15 acres shall be completed and dedicated for public use and enjoyment in each of Phases 2, 4 and 5. In addition, the Project shall include the restoration of Clemente’s Lake in order to render it suitable for public recreation such as boating and other recreational activities. The restoration shall include the removal of all equipment and debris and the remediation of any contamination necessary to permit the safe and unrestricted use of the lake for the activities set forth above. The passive and active recreational areas shall be open and available to the public under reasonable terms and conditions that will be agreed to between the Redeveloper and the Township.

F. Clubhouse to be constructed as part of Age Qualified Community

Redeveloper shall construct a clubhouse/community center ("Community Center") as part of its construction of the Age Qualified community in accordance with the development plans to be approved by the Township. This Community Center shall be for the primary use and enjoyment of the Age-Qualified Community, but may, in the discretion of the Homeowner's Association, be made available to the Township and its residents.

### **PHASE ONE**

Phase I shall consist of the following to be completed by the Redeveloper:

- a. Construction of a minimum of one hundred (100) Age Qualified units and a maximum of one hundred fifty (150) market rate units allocated among Tiers 1-4, with a minimum of 30 units of each Tier;
- b. Construction of Forty-Thousand Square Feet (40,000) of office and/or commercial space within the Township;
- c. Satisfaction of any COAH obligation resulting from the construction of Phase I.

Redeveloper agrees that it shall undertake the completion of Phase I pursuant to the following schedule:

TASK	COMPLETION DATE
1. Acquire title to all parcels determined by the Redeveloper to be necessary or desirable for the implementation of Phase I. (Date on which all property is acquired is "Phase I Acquisition Date.")	3 years from the Effective Date of the Agreement.
2. Submit complete applications for all Governmental Approvals capable of being submitted necessary for construction of Phase I of the Project and use reasonable	1 year from the Phase I Acquisition Date.

efforts to diligently pursue the approval of all such applications.	
3. Complete Construction of Phase I.	3 years from receipt of all approvals necessary for the construction of Phase I. Redeveloper shall have the right to extend the 3 year construction deadline for two one-year periods, which may only be exercised by payment of \$50,000.00 for each extension. The right to such extensions must be exercised before the expiration of the then-existing construction deadline.

## **PHASE TWO**

Phase II shall consist of the following to be completed by the Redeveloper:

- a. Construction of a minimum of one hundred (100) Age Qualified units and a maximum of one hundred fifty (150) market rate units allocated among Tiers 1-4, with a minimum of 30 units of each Tier;
- b. Improve and offer for dedication and deed-restriction 15 acres of active and passive recreation area within the Redevelopment Area;
- c. Restoration of Clemente's Lake
- d. Satisfaction of any COAH obligation resulting from the construction of Phase II.

Redeveloper agrees that it shall undertake the completion of Phase I pursuant to the following schedule:

TASK	COMPLETION DATE
1. Acquire title to all parcels determined by the Redeveloper to be necessary or desirable for the implementation of Phase II. (Date on which all property is acquired is "Phase II Acquisition Date.")	3 years from the Phase I Acquisition Date.

2. Submit complete applications for all Governmental Approvals capable of being submitted necessary for construction of Phase II of the Project and use reasonable efforts to diligently pursue the approval of all such applications.	1 year from the Phase II Acquisition Date.
3. Complete Construction of Phase II.	3 years from receipt of all approvals necessary for the construction of Phase II. Redeveloper shall have the right to extend the 3 year construction deadline for two one-year periods, which may only be exercised by payment of \$50,000.00 for each extension. The right to such extensions must be exercised before the expiration of the then-existing construction deadline.

### **PHASE THREE**

Phase III shall consist of the following to be completed by the Redeveloper:

- a. Construction of a minimum of one hundred (100) Age Qualified units and a maximum of one hundred fifty (150) market rate units allocated among Tiers 1-4, with a minimum of 30 units of each Tier;
- b. Construction of One Hundred-Thousand Square Feet (100,000) of office and/or commercial space within the Township;
- c. Satisfaction of any COAH obligation resulting from the construction of Phase III.

Redeveloper agrees that it shall undertake the completion of Phase III pursuant to the following schedule:

TASK	COMPLETION DATE
1. Acquire title to all parcels determined by the Redeveloper to be necessary or desirable for the implementation of Phase III. (Date on which all property is acquired is "Phase III Acquisition Date.")	3 years from the Phase II Acquisition Date.
2. Submit complete applications for all Governmental Approvals capable of being submitted necessary for construction of Phase III of the Project and use reasonable efforts to diligently pursue the approval of all such applications.	1 year from the Phase III Acquisition Date.
3. Complete Construction of Phase III.	3 years from receipt of all approvals necessary for the construction of Phase III. Redeveloper shall have the right to extend the 3 year construction deadline for two one-year periods, which may only be exercised by payment of \$50,000.00 for each extension. The right to such extensions must be exercised before the expiration of the then-existing construction deadline.

#### **PHASE FOUR**

Phase IV shall consist of the following to be completed by the Redeveloper:

- a. Construction of a minimum of one hundred (100) Age Qualified units and a maximum of one hundred fifty (150) market rate units allocated among Tiers 1-4, with a minimum of 30 units of each Tier;



- b. Construction of One Hundred-Thousand Square Feet (100,000) of office and/or commercial space within the Township;
- c. Improve and offer for dedication and deed-restriction 15 acres of active and passive recreation area within the Redevelopment Area;
- d. Construction of [Name] Lake clubhouse of approximately ----- square feet;
- e. Satisfaction of any COAH obligation resulting from the construction of Phase IV.

Redeveloper agrees that it shall undertake the completion of Phase IV pursuant to the following schedule:

TASK	COMPLETION DATE
1. Acquire title to all parcels determined by the Redeveloper to be necessary or desirable for the implementation of Phase IV. (Date on which all property is acquired is "Phase IV Acquisition Date.")	3 years from the Phase III Acquisition Date.
2. Submit complete applications for all Governmental Approvals capable of being submitted necessary for construction of Phase IV of the Project and use reasonable efforts to diligently pursue the approval of all such applications.	1 year from the Phase IV Acquisition Date.
3. Complete Construction of Phase IV.	3 years from receipt of all approvals necessary for the construction of Phase IV. Redeveloper shall have the right to extend the 3 year construction deadline for two one-year periods, which may only be exercised by payment of \$50,000.00 for each extension. The right to such extensions must be exercised before the expiration of the then-existing construction deadline.

## PHASE FIVE

Phase V shall consist of the following to be completed by the Redeveloper:

- a. Construction of a minimum of one hundred (100) Age Qualified units and a maximum of one hundred (100) market rate units allocated among Tiers 1-4, with a minimum of 20 units of each Tier;
- b. Construction of One Hundred and Ten-Thousand Square Feet (110,000) of office and/or commercial space within the Township;
- c. Improve and offer for dedication and deed-restriction 15 acres of active and passive recreation area within the Redevelopment Area;
- d. Satisfaction of any COAH obligation resulting from the construction of Phase V.

Redeveloper agrees that it shall undertake the completion of Phase V pursuant to the following schedule:

TASK	COMPLETION DATE
1. Acquire title to all parcels determined by the Redeveloper to be necessary or desirable for the implementation of Phase V. (Date on which all property is acquired is "Phase V Acquisition Date.")	3 years from the Phase IV Acquisition Date.
2. Submit complete applications for all Governmental Approvals capable of being submitted necessary for construction of Phase V of the Project and use reasonable efforts to diligently pursue the approval of all such applications.	1 year from the Phase V Acquisition Date.
3. Complete Construction of Phase V.	3 years from receipt of all approvals necessary for the construction of Phase V. Redeveloper shall have the right to extend the 3 year construction deadline for two one-year periods, which may only be exercised by payment of \$50,000.00 for each extension. The right to such extensions must be exercised before the expiration of the then-existing construction deadline.

## **EXHIBIT B-1**

### **INFRASTRUCTURE IMPROVEMENTS**

**Utility Improvements:** Redeveloper shall prepare analyses and reports on such infrastructure and utilities as it deems necessary or desirable within the Redevelopment Area. Redeveloper shall pay all costs for the improvement of all off-site utilities to provide service to the Project Site. The parties agree to reasonably cooperate to obtain grants and other incentives for infrastructure and utilities that may be available for Redevelopment Projects. Moreover, the Township agrees to reasonably cooperate with the Redeveloper so that the Redeveloper may obtain recapture agreements or repayment agreements from other developers utilizing such infrastructure or utilities.

## EXHIBIT C

### EXEMPT RESIDENTIAL PROPERTIES

#### Residences Associated with Farm Properties Inside Carneys Point Redevelopment Area

BL	LOT	PROPERTY ADDRESS	ASSESSED ACREAGE	PROPERTY OWNER	OWNER'S ADDRESS	CITY & STATE
248	8.00	60 N GAME CREEK	1.89	JOHNSTON, CLAR	60 N GAME CREEK	CARNEYS POINT, NJ
248	8.01	60 N GAME CREEK	0.72	JOHNSTON, CLAR	60 N GAME CREEK	CARNEYS POINT, NJ
247	4.00	36 S PENNSVILLE	1.0 Ac	TOMARCHIO, FRED	36 S PENNSVILLE	CARNEYS POINT, NJ
247	12.00	30 N GAME CREEK	1.0 Ac	JOHNSTON, ARTHUR	30 N GAME CREEK	CARNEYS POINT, NJ
193	13.00	429 SHELL RD	1.0 Ac	CLEMENTE, JOHN	PO BOX 512	CARNEYS POINT, NJ

**EXHIBIT D**

**DISCLOSURES**

REDEVELOPER:

TOWNSHIP:

## **EXHIBIT E**

**Intentionally omitted**

## **EXHIBIT F**

### **REDEVELOPER'S PROJECT TEAM**

<b>Principals:</b>	Charles C. Sturges, III, CEO
	Richard R. Carroll, Jr., President
	Lawrence A. Wargo, Executive Vice President
<b>Project Executives:</b>	David Brandschain, President Heritage Residential Group
	Mark A. Shagena, President Heritage Commercial Group
	Erica S. Henning, Vice President Land Operations
<b>Environmental Engineer:</b>	Lawra Dodge, Excel Environmental Resources, Inc.
<b>Project Engineer:</b>	Carl Gaskill, Fralinger Engineering
<b>Redevelopment Attorney:</b>	Jack Plackter, Esq., Fox Fothschild
<b>Corporate Attorney:</b>	Anthony E. Maras, Esq., Assistant General Counsel

**EXHIBIT G**  
**Compliance Plan for Affordable Housing**

Heritage has elected to provide new construction of low and moderate-income rental units through the “municipally sponsored” construction program under the COAH regulations. Heritage will attempt to obtain site control of a property on the Pennsville border, south of I-295/NJ Turnpike access road to the Delaware Memorial Bridge, and will then submit applications to construct a 40-60 unit facility under the Housing and Mortgage Finance Agency’s Tax Credit Program and the Department of Community Affairs’ Home Express Program. These units will qualify for COAH’s 2:1 bonus credits for the Township’s remaining 30-unit Round 2 obligation and any bonus credits available toward the Round 3 obligation. In the event that Heritage is unsuccessful in securing the above referenced property, Heritage will work with the Township to secure an alternate site mutually acceptable to Heritage and the Township.

Heritage anticipates that the development will secure funds in advance of the Township’s expiring COAH substantive certification in August 2007. As per the COAH requirements, the following project information will be submitted by December 2006:

1. Site control in the form of ownership or an option to purchase,
2. An administrative mechanism indicating who will income qualify applicants and administer the units once they are occupied,
3. Detailed information indicating adequate project funding,
4. And, timetables for construction of the units.

This project has the advantage of producing the affordable housing required of the Township without generating an excessive number of new market units or requiring a high density of development to achieve this objective.



**EXHIBIT H**  
**REDEVELOPMENT PLAN**



**CARNEYS POINT TOWNSHIP  
RESOLUTION 2007-122**

**RESOLUTION OF NEED REGARDING THE REHABILITATION OF  
SANDY RIDGE APARTMENTS**

**WHEREAS**, Insulated Equities, LLC ( hereinafter referred to as the “Sponsor”) is negotiating and proposes to purchase and substantially rehabilitate a 216 unit housing project ( the “project”) pursuant to the provisions of New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended ( N.J.S.A. 55:14K-1 et seq), the rules promulgated thereunder at N.J.A.C. 5:80-1.1 et seq. and all applicable guidelines promulgated thereunder ( the foregoing collectively referred to as the “HMFA Requirements” ) within the Township of Carneys Point ( hereinafter referred to as “Municipality”) on a site described as Lot 33, Block 45 as shown on the Official Tax Map of the Township of Carneys Point, Salem County and commonly known as Sandy Ridge Apartments, 175 Penns Grove Auburn Road, Carneys Point, New Jersey; and

**WHEREAS**, the Sponsor has advised that it intends that the Project will be subject to the HMFA Requirements and the mortgage and other loan documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency ( hereinafter referred to as “Agency”); and

**WHEREAS**, pursuant to the HMFA Requirements, the governing body hereby determines that there is a need for the proposed housing project in the Municipality.

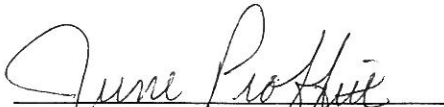
**NOW, THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Carneys Point that the Township finds and determines that the Sandy Ridge Apartments Project proposed by the Sponsor meets or will meet a housing need in the Township.


**BE IT FURTHER RESOLVED** that the Committee does adopt the within resolution and makes its determinations and findings herein contained on basis that the proposed sponsored project is intended to generate affordable housing units to be counted toward the Township’s obligations under third round COAH rules and in conformity with the provisions of the HMFA law to enable the Agency to process the Sponsor’s application for funding to finance the project .

**BE IT FURTHER RESOLVED** that this resolution is adopted solely for the aforesaid purposes and is not intended to create any obligation for the Township to the Sponsor, HMFA or otherwise.

ATTEST:

CARNEYS POINT TOWNSHIP

  
June Proffitt, Township Clerk

  
G. Richard Gatani, Mayor

Adopted: June 6, 2007

COMMITTEE	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
DiTeodoro		X	X			
Wright			X			
Rullo	X		X			
Voyles						X
Gatani			X			

I certify this to be a true and correct copy of a Resolution adopted by the Mayor and Township Committee of the Township of Carneys Point at a regularly scheduled meeting held on June 6, 2007

\_\_\_\_\_  
June Proffitt, Township Clerk

# Council on Affordable Housing

## DRAFT Development Fee Ordinance

### 1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

### 2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to *N.J.A.C. 5:96-5.1*.
- b) Carneys Point Township shall not spend development fees until COAH has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

### 3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
  - i. "**Affordable housing development**" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary

development, a municipal construction project or a 100 percent affordable development.

- ii. **“COAH”** or the **“Council”** means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- iii. **“Development fee”** means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.
- iv. **“Developer”** means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. **“Equalized assessed value”** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. **“Green building strategies”** means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

#### 4. Residential Development fees

- a) Imposed fees
  - i. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one-half of one percent of the equalized assessed value for residential development provided no increased density is permitted.
  - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

- b) Eligible exactions, ineligible exactions and exemptions for residential development
  - i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
  - ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
  - iii. Within the Designated Redevelopment Areas, developers shall be exempt from paying a development fee.

## **5. Non-residential Development fees**

- a) Imposed fees
  - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
  - ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
  - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- b) Eligible exactions, ineligible exactions and exemptions for non-residential development

- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
- ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Carneys Point as a lien against the real property of the owner.

## **6. Collection procedures**

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.



- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should Carneys Point fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees
  - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Carneys Point. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Carneys Point. Appeals from a

determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

## **7. Affordable Housing trust fund**

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - 1. payments in lieu of on-site construction of affordable units;
  - 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - 3. rental income from municipally operated units;
  - 4. repayments from affordable housing program loans;
  - 5. recapture funds;
  - 6. proceeds from the sale of affordable units; and
  - 7. any other funds collected in connection with Carneys Point's affordable housing program.
- c) Within seven days from the opening of the trust fund account, Carneys Point shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

## **8 Use of funds**

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Carneys Point's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be

cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

- b) Funds shall not be expended to reimburse Carneys Point for past housing activities.
- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
  - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
  - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner may entitle Carneys Point to bonus credits pursuant to N.J.A.C. 5:97-3.7.
  - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) Carneys Point may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental

units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

## **9. Monitoring**

- a) Carneys Point shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Carneys Point's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

## **10. Ongoing collection of fees**

- a) The ability for Carneys Point to impose, collect and expend development fees shall expire with its substantive certification unless Carneys Point has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Carneys Point fails to renew its ability to impose and collect development fees prior to the expiration of *substantive certification*, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). Carneys Point shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Carneys Point retroactively impose a development fee on such a development. Carneys Point shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

# Council on Affordable Housing

## Sample Governing Body Resolution Requesting Review and Approval of Development Fee Ordinance

**WHEREAS**, the Governing Body of Carneys Point, Salem County petitioned the Council on Affordable Housing (COAH) for substantive certification on *[insert date]*; and

**WHEREAS**, P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), permits municipalities that are under the jurisdiction of COAH or of a court of competent jurisdiction and that have a COAH-approved spending plan to impose and retain fees on residential and non-residential development; and

**WHEREAS**, subject to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), N.J.A.C. 5:97-8.3 permits a municipality to prepare and submit a development fee ordinance for review and approval by the Council on Affordable Housing (COAH) that is accompanied by and includes the following:

1. A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d) ;
2. A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e);
3. A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d) ;
4. A description of collection procedures per N.J.A.C. 5:97-8.3(f);
5. A description of development fee appeals per N.J.A.C. 5:97-8.3(g); and
6. A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h).

**WHEREAS**, Carneys Point has prepared a draft development fee ordinance that establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations at N.J.A.C. 5:97-8 and in accordance with P.L.2008, c.46, Sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

**NOW THEREFORE BE IT RESOLVED** that the Governing Body of Carneys Point, Salem County requests that COAH review and approve Carneys Point's development fee ordinance.

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*[insert name]*  
Municipal Clerk

# **Council on Affordable Housing**

## **DRAFT Affordable Housing Trust Fund Spending Plan**

### **INTRODUCTION**

Carneys Point Township, Salem County has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). The Township of Carneys Point adopted a Development Fee Ordinance. The ordinance, however, requires amendment due to the recent amendment of the Fair Housing Act. This spending plan has been prepared in accordance with COAH's current rules.

As of July 17, 2008, Carneys Point Township has collected \$ 35,970, expended \$ 0, resulting in a balance of \$ 35,970. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in The Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

### **1. REVENUES FOR CERTIFICATION PERIOD**

To calculate a projection of revenue anticipated during the period of third round substantive certification, Carneys Point Township considered the following:

#### **(a) Development fees:**

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

#### **(b) Payment in lieu (PIL):**

Actual and committed payments in lieu (PIL) of construction from developers as follows: \$0

#### **(c) Other funding sources:**

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units and [*insert name of other fund(s)*]. \$0

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate. \$10,000.00

SOURCE OF FUNDS	PROJECTED REVENUES-HOUSING TRUST FUND - 2008 THROUGH 2018											
	7/18/08 Through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
(a) Development fees:												
1. Approved Development	35,970											35,970
2. Development Pending Approval	0											
3. Projected Development	0	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	300,000
(b) Payments in Lieu of Construction	0											
(c) Other Funds (Specify source(s))	0											
(d) Interest	Included above	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	10,000
<b>Total</b>	35,970	31,000	31,000	31,000	31,000	31,000	31,000	31,000	31,000	31,000	31,000	345,970

Lafayette projects a total of \$ 548,423 in revenue to be collected between July 18, 2008 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.



## 2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Carneys Point Township:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Carneys Point development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

**The affordable housing liaison instructs the CFO to release a certain amount of funding to a recipient entity.**

## 3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

Rehab Program: \$

New Construction: The Township intends to make available by loan or grant funds for new affordable housing construction that satisfies the Township's obligation under the current guidelines. The amount available for each project will be calculated based upon the proportionate amount of affordable credits from the proposed development to the Township's affordable housing needs. A developer's agreement and deed restriction will be required to ensure proper use of funding.

### **Affordability Assistance (N.J.A.C. 5:97-8.8)**

Projected minimum affordability assistance requirement:

Actual development fees through November 19,2008		\$35,970
Actual interest earned through 7/17/2008	+	\$included above
Development fees projected* 2008-2018	+	\$300,000
Interest projected* 2008-2018	+	\$ 10,000
Less housing activity expenditures through 2018	-	\$
<b>Total</b>	=	\$345,970
30 percent requirement	x 0.30 =	\$103,791
Less Affordability assistance expenditures through 12/31/2004	-	\$0
<b>PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018</b>	=	\$103,791
<b>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018</b>	÷ 3 =	\$34,597

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\* Note: The 2008 portion of this projection reflects 2008 subsequent to July 17 as the remainder of 2008 is included in the actual figure reported above.

*Carneys Point Township* will dedicate \$103,791 from the affordable housing trust fund to render units more affordable, including \$ 34,597 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

***1. Downpayment assistance***

**(a) Administrative Expenses (N.J.A.C. 5:97-8.9)**

*Carneys Point* projects that \$69,194 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

Development of Third Round Compliance  
Contracting and Negotiation with Prospective Providers Of Affordable Housing  
Funding of Affordable Housing Liaison  
Funding of Administrative Agent  
Advertising and Marketing

#### 4. EXPENDITURE SCHEDULE

*Carneys Point* intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Program  <i>[Individually list programs and projects e.g. Rehab, Accessory Apartments, for-sale and rental municipally sponsored, etc].</i>	Funds Expended and/or Dedicated	PROJECTED EXPENDITURE SCHEDULE 2009 -2018										
		7/18/08 – 12/31 /08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Rehab program												
Heritage Project												
Total Programs												
Affordability Assistance	103,791											103,791
Administration	69,194											69,194
Total												



## **5. EXCESS OR SHORTFALL OF FUNDS**

Pursuant to the Housing Element and Fair Share Plan, the governing body of Carneys Point Township has adopted a resolution agreeing to fund any shortfall of funds required for implementing the rehab program, accessory apartment program and affordability assistance programs. In the event that a shortfall of anticipated revenues occurs, Carneys Point will adopt a resolution of intent to bond for the shortfall. The resolution is not yet adopted.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used for an unnamed program to generate more credits, program administration and preparation of a fourth round plan.

## **6. BARRIER FREE ESCROW**

Collection and distribution of barrier free funds shall be consistent with Carneys Point's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

*[Reference section of Affordable Housing Ordinance that explains the collection and distribution of barrier free funds.]* Not done yet

## **SUMMARY**

*Carneys Point* intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated December 2008

*Carneys Point* has a balance of \$ 35,970 as of November 19, 2008 and anticipates an additional \$ \$300,000 in revenues before the expiration of substantive certification for a total of \$335,970. The municipality will dedicate \$ 200,000 toward new construction project and rehab program and \$ 103,791 for affordability assistance to render units more affordable, and \$69,194 to administrative costs. Any shortfall of funds will be offset by bonding. The municipality will dedicate any excess funds toward an unnamed program to generate more credits, program administration and preparation of a fourth round plan.

<b>SPENDING PLAN SUMMARY</b>	
Balance as of November 19, 2008	\$35,970
<b>PROJECTED REVENUE July 18, 2008-2018</b>	
Development fees	+ \$300,000
Payments in lieu of construction	+ \$0
Other funds	+ \$0
Interest	+ \$10,000
<b>TOTAL REVENUE = \$345,970</b>	
<b>EXPENDITURES</b>	
Funds used for Rehabilitation	- \$
Funds used for New Construction	
1. Heritage	- \$
2.	
3.	- \$
4.	- \$
5.	- \$
6.	- \$
7.	- \$
8.	- \$
9.	- \$
10.	- \$
Affordability Assistance	- \$103,791
Administration	- \$69,194
Excess Funds for Additional Housing Activity	= \$
1. an unnamed program for more credits	- \$
2. consultants	- \$
3.	- \$
<b>TOTAL PROJECTED EXPENDITURES</b>	<b>= \$345,970</b>
<b>REMAINING BALANCE</b>	<b>= \$0.00</b>

**DRAFT**

**Governing Body Resolution Requesting Review and Approval of a Municipal Affordable Housing Trust Fund Spending Plan**

**WHEREAS**, the Governing Body of Carneys Point, Salem petitioned the Council on Affordable Housing (COAH) for substantive certification on *(insert date)*; and

**WHEREAS**, Carneys Point received approval from COAH on *[insert date]* of its development fee ordinance; and

**WHEREAS**, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or *[insert any other funds collected in connection with your municipality's affordable housing program]*;

**WHEREAS**, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

**WHEREAS**, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;

7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;
9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

**WHEREAS**, Carneys Point has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

**NOW THEREFORE BE IT RESOLVED** that the Governing Body of Carneys Point, Salem County requests that COAH review and approve Carneys Point's spending plan.

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*[insert name]*  
Municipal Clerk



# **TOWNSHIP OF CARNEYS POINT**

## **RESOLUTION 2008-156**

### **IDENTIFYING CDBG FAIR HOUSING OFFICER FY 2009 HOUSING REHABILITATION PROGRAM**

**WHEREAS**, the Township of Carneys Point, as the lead agency of a Housing Rehabilitation Program with the Township of Oldmans and the Borough of Penns Grove is applying for Small Cities Community Development Block Grants from the New Jersey Department of Community Affairs (hereafter NJDCA) for housing rehabilitation activities; and

**WHEREAS**, the Township of Carneys Point must make efforts to affirmatively further fair housing; and

**WHEREAS**, the Township of Carneys Point has reviewed various actions that would be acceptable to the New Jersey State Department of Community Affairs and the U.S. Department of Housing and Urban Development; and

**WHEREAS**, the Township of Carneys Point has made assurances in the grant agreement that:

- (1) It will comply with the Housing and Community Development Act of 1974, as amended, and regulations issued thereto; and
- (2) It will comply with the Civil Rights Act of 1964, and the regulations issued thereto it; and
- (3) It will comply with the Fair Housing Act of 1968 and will affirmatively further fair housing; and
- (4) It will comply with the Age Discrimination Act of 1975 and with the Rehabilitation Act of 1973.

**NOW, THEREFORE, BE IT RESOLVED** that June Proffitt shall be designated as the Fair Housing Officer for the Township of Carneys Point; and

**BE IT FURTHER RESOLVED** that the Fair Housing Officer shall contact USHUD Regional Office of Housing and Equal Opportunity and the NJ Division on Civil Rights, inform those agencies of his/her appointment as Fair Housing Officer, and request Fair Housing Information, and

**BE IT FURTHER RESOLVED** that the Fair Housing Officer shall provide fair housing advisory services and assistance and referral advice to persons requesting such assistance from the Township of Carneys Point; and

**BE IT FURTHER RESOLVED** that the Township of Carneys Point will publish in the local newspaper of record and post at the municipal building a public notice announcing the appointment of the Fair Housing Officer and the availability of local fair housing services.

ATTEST:

CARNEYS POINT TOWNSHIP

  
June Proffitt, Township Clerk

  
Wayne D. Pelura, Mayor

Adopted: October 22, 2008

COMMITTEE	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
DENNIS	X		X			
DITEODORO						X
RULLO		X	X			
WRIGHT						X
PELURA			X			

I hereby certify the foregoing to be a true copy of a Resolution adopted by the Township Committee of the Township of Carneys Point at a Special Meeting held on October 22, 2008.

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June Proffitt, Township Clerk